

NINETY-FIFTH DAY

MORNING SESSION

Senate Chamber, Olympia, Thursday, April 16, 2009

The Senate was called to order at 10:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senator Rockefeller.

The Sergeant at Arms Color Guard consisting of Pages Taylor Kay Talcott and Jonathan Lewis, presented the Colors. Senior Pastor Roger Worsham of Rainier View Christian Church 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 fourth order of business.

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The House has passed the following bills:
SENATE BILL NO. 5599,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The Speaker has signed the following:
SENATE BILL NO. 5015
SUBSTITUTE SENATE BILL NO. 5044,
SUBSTITUTE SENATE BILL NO. 5117,
SUBSTITUTE SENATE BILL NO. 5267,
SUBSTITUTE SENATE BILL NO. 5276,
SENATE BILL NO. 5298,
SENATE BILL NO. 5303,
SUBSTITUTE SENATE BILL NO. 5326,
SENATE BILL NO. 5356,
SUBSTITUTE SENATE BILL NO. 5480,
SUBSTITUTE SENATE BILL NO. 5571,
SENATE BILL NO. 5587,
SUBSTITUTE SENATE BILL NO. 5613,
SECOND SUBSTITUTE SENATE BILL NO. 5676,
SUBSTITUTE SENATE BILL NO. 5752,
SUBSTITUTE SENATE BILL NO. 5765,
SUBSTITUTE SENATE BILL NO. 5776,
SUBSTITUTE SENATE BILL NO. 5797,
ENGROSSED SUBSTITUTE SENATE BILL NO. 5873,
SUBSTITUTE SENATE BILL NO. 5882,
SENATE BILL NO. 6068,
SENATE JOINT MEMORIAL NO. 8006,
SENATE JOINT MEMORIAL NO. 8012,
SENATE JOINT MEMORIAL NO. 8013,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The House has passed the following bills:
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2327,
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

April 15, 2009

MR. PRESIDENT:

The Speaker has signed the following:
SUBSTITUTE HOUSE BILL NO. 1022,
HOUSE BILL NO. 1063,
HOUSE BILL NO. 1264,
SUBSTITUTE HOUSE BILL NO. 1397,
SUBSTITUTE HOUSE BILL NO. 1413,
SUBSTITUTE HOUSE BILL NO. 1419,
HOUSE BILL NO. 1426,
ENGROSSED HOUSE BILL NO. 1461,
HOUSE BILL NO. 1498,
SUBSTITUTE HOUSE BILL NO. 1505,
SECOND SUBSTITUTE HOUSE BILL NO. 1522,
SUBSTITUTE HOUSE BILL NO. 1532,
HOUSE BILL NO. 1578,
SUBSTITUTE HOUSE BILL NO. 1733,
SUBSTITUTE HOUSE BILL NO. 1984,
SUBSTITUTE HOUSE BILL NO. 2052,
ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105,
HOUSE JOINT MEMORIAL NO. 4000,
HOUSE JOINT MEMORIAL NO. 4005,
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

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

INTRODUCTION AND FIRST READING

SB 6174 by Senators Brandland, Marr and Hatfield

AN ACT Relating to disclosure of information regarding persons who are involved in executions; amending RCW 10.95.180; creating a new section; and declaring an emergency.

Referred to Committee on Judiciary.

SB 6175 by Senators Kline, Hargrove and Kohl-Welles

AN ACT Relating to correctional cost savings; and creating a new section.

Referred to Committee on Ways & Means.

SB 6176 by Senator Keiser

AN ACT Relating to adjusting medical assistance payment rates for hospitals; and amending RCW 74.09.5225.

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Referred to Committee on Ways & Means.

MOTION

SB 6177 by Senator Kastama

AN ACT Relating to public financing of campaigns; amending RCW 42.17.390, 42.17.020, 42.17.095, 42.52.180, 42.17.128, and 42.17.130; adding new sections to chapter 42.17 RCW; creating new sections; and prescribing penalties.

Referred to Committee on Government Operations & Elections.

SB 6178 by Senators Prentice and Tom

AN ACT Relating to general assistance.

Referred to Committee on Ways & Means.

SB 6179 by Senators Tom, Fairley and Prentice

AN ACT Relating to chemical dependency specialist services; and amending RCW 70.96A.037.

Referred to Committee on Ways & Means.

SB 6180 by Senators Keiser, Tom and Prentice

AN ACT Relating to home care workers.

Referred to Committee on Ways & Means.

SB 6181 by Senators Tom, Prentice and Fairley

AN ACT Relating to the intensive resource home pilot; and amending RCW 74.13.800.

Referred to Committee on Ways & Means.

SB 6182 by Senators Fairley, Prentice and Tom

AN ACT Relating to residential habilitation centers; and amending RCW 71A.20.020.

Referred to Committee on Ways & Means.

ESB 6183 by Senator Regala

AN ACT Relating to early deportation of illegal alien offenders; and amending RCW 9.94A.685.

Referred to Committee on Ways & Means.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

EHB 2194 by Representative Appleton

AN ACT Relating to extraordinary medical placement for offenders; amending RCW 9.94A.728; and providing an effective date.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide, all measures listed on the Introduction and First Reading report were referred to the committees as designated.

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

MOTION

Senator Swecker moved adoption of the following resolution:

SENATE RESOLUTION
8649

By Senator Swecker

WHEREAS, There are more than 700,000 veterans residing in the state of Washington; and

WHEREAS, 18 percent of the veterans who sought jobs within one to three years of discharge are unemployed; and

WHEREAS, The state of Washington has made promises in relation to employment for veterans' and their family's sacrifices that they have made in defense to our country and our state; and

WHEREAS, The laws of the state of Washington have long granted recognition of a veteran's sacrifices by providing preferred employment opportunities for veterans regardless of physical impairment;

NOW, THEREFORE, BE IT RESOLVED, That on this day, April 16, 2009, the Washington State Senate reaffirms its dedication to the preferred employment opportunities promised to veterans in 1895; and

BE IT FURTHER RESOLVED, That copies of this resolution be immediately transmitted by the Secretary of the Senate to Disabled American Veterans of Washington.

Senators Swecker, Hobbs, Shin, Kauffman and Benton spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8649.

The motion by Senator Swecker carried and the resolution was adopted by voice vote.

INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced representatives from the Washington State Department of Veterans Affairs; Paul Hardy, Retired Sgt. Majors and Chiefs Association; Ryan Nabors, Vice Chairman, Veterans Legislative Coalition; Stan Gunno, Commander, WA. Disabled American Veterans; Ernest Hume, Adjutant, WA. Disabled American Veterans; Henry Gossage, Chairman, Veterans Legislative Coalition; Cecil Cheeka, Marine Corps League; Commander Lloyd Burroughs, National Association of Black Veterans; Oscar B. Hilman, Retired General; William L. Hughes, Retired Chief Warrant Officer 3, U. S. Army; John Lee, Director, WA. State Department of Veterans Affairs and others who were seated in the gallery.

PERSONAL PRIVILEGE

Senator Swecker: "Thank you Mr. President. I just want to make a, tell a story about how things have changed since I came home from Vietnam. When I came back I was carrying a Russian-made AK-47 as a trophy rifle. I actually carried it on a sling on my shoulder. We landed at Travis Air Force Base and were disembarked, whatever that means, and I found out that my civilian flight was just about ready to leave so I jumped in a cab, rushed to the civilian airport, ran down the concourse, they waved me through, I ran down the causeway into the aircraft, now remember I'm carrying a AK-47, I have a black beret on, I haven't shaved for three days and I had a set of wrinkled khaki uniform on. When I got to the aircraft, the stewardess said, 'May I put that in the closet for you?' Thank you Mr. President."

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PERSONAL PRIVILEGE

Senator McCaslin: "As the last standing member of the Senate of World War II, there was some humor in the war. I remember a comedian George Gobel was in the Army, you know I was in the Army then I went to the Air Force later on but they said they stationed him in Tulsa Oklahoma and of course you didn't have control of where they stationed you but he said, 'They must of needed me there because no Japanese planes got past Tulsa.'"

MOTION

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

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1776, by House Committee on Education Appropriations (originally sponsored by Representatives Ericks, Haigh, Priest, Hunter, Liias, Sullivan, Pedersen, Maxwell, White and Kenney)

Changing school levy provisions.

The measure was read the second time.

MOTION

Senator McAuliffe 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 84.52.0531 and 2009 c 4 s 908 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For excess levies for collection in calendar year 1997, the maximum dollar amount shall be calculated pursuant to the laws and rules in effect in November 1996.

(2) For excess levies for collection in calendar year 1998 and thereafter, the maximum dollar amount shall be the sum of (a) plus or minus (b) and (c) of this subsection minus (d) of this subsection:

(a) The district's levy base as defined in subsections (3) and (4) of this section multiplied by the district's maximum levy percentage as defined in subsection (5) of this section;

(b) For districts in a high/nonhigh relationship, the high school district's maximum levy amount shall be reduced and the nonhigh school district's maximum levy amount shall be increased by an amount equal to the estimated amount of the nonhigh payment due to the high school district under RCW 28A.545.030(3) and 28A.545.050 for the school year commencing the year of the levy;

(c) For districts in an interdistrict cooperative agreement, the nonresident school district's maximum levy amount shall be reduced and the resident school district's maximum levy amount shall be increased by an amount equal to the per pupil basic education allocation included in the nonresident district's levy base under subsection (3) of this section multiplied by:

(i) The number of full-time equivalent students served from the resident district in the prior school year; multiplied by:

(ii) The serving district's maximum levy percentage determined under subsection (5) of this section; increased by:

(iii) The percent increase per full-time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year divided by fifty-five percent;

(d) The district's maximum levy amount shall be reduced by the maximum amount of state matching funds for which the district is eligible under RCW 28A.500.010.

(3) For excess levies for collection in calendar year 2005 and thereafter, a district's levy base shall be the sum of allocations in (a) through (c) of this subsection received by the district for the prior school year and the amounts determined under subsection (4) of this section, including allocations for compensation increases, plus the sum of such allocations multiplied by the percent increase per full time equivalent student as stated in the state basic education appropriation section of the biennial budget between the prior school year and the current school year and divided by fifty-five percent. A district's levy base shall not include local school district property tax levies or other local revenues, or state and federal allocations not identified in (a) through (c) of this subsection.

(a) The district's basic education allocation as determined pursuant to RCW 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

(i) Pupil transportation;

(ii) Special education;

(iii) Education of highly capable students;

(iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;

(v) Food services; and

(vi) Statewide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(4) For levy collections in calendar years 2005 through ~~(2011)~~ 2014, in addition to the allocations included under subsection (3)(a) through (c) of this section, a district's levy base shall also include the following:

(a) The difference between the allocation the district would have received in the current school year ~~((had RCW 84.52.068 not been amended by chapter 19, Laws of 2003 1st sp. sess.))~~ using the Initiative 728 base and the allocation the district received in the current school year pursuant to RCW 84.52.068 ~~((The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(a) by any additional per student allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004));~~ and

(b) The difference between the allocations the district would have received the prior school year ~~((had RCW 28A.400.205 not been amended by chapter 20, Laws of 2003 1st sp. sess.))~~ using the Initiative 732 base and the allocations the district actually received the prior school year pursuant to RCW 28A.400.205. ~~((The office of the superintendent of public instruction shall offset the amount added to a district's levy base pursuant to this subsection (4)(b) by any additional salary increase allocations included in a district's levy base pursuant to the enactment of an initiative to the people subsequent to June 10, 2004.))~~

(5) A district's maximum levy percentage shall be twenty-two percent in 1998 and twenty-four percent in 1999 and every

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year thereafter; plus, for qualifying districts, the grandfathered percentage determined as follows:

(a) For 1997, the difference between the district's 1993 maximum levy percentage and twenty percent; and

(b) For 1998 and thereafter, the percentage calculated as follows:

(i) Multiply the grandfathered percentage for the prior year times the district's levy base determined under subsection (3) of this section;

(ii) Reduce the result of (b)(i) of this subsection by any levy reduction funds as defined in subsection (6) of this section that are to be allocated to the district for the current school year;

(iii) Divide the result of (b)(ii) of this subsection by the district's levy base; and

(iv) Take the greater of zero or the percentage calculated in (b)(iii) of this subsection.

(6) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsections (3) and (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(7) ~~((For the purposes of this section;))~~ The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Prior school year" means the most recent school year completed prior to the year in which the levies are to be collected.

~~((8) For the purposes of this section;))~~ (b) "Current school year" means the year immediately following the prior school year.

(c) "Initiative 728 base" means the allocation to the student achievement fund for the prior year that would have been made under chapter 3, Laws of 2001, as approved by the voters, if all annual adjustments to the initial 2001 allocation had been made in previous years and in each subsequent year as provided for under chapter 3, Laws of 2001.

(d) "Initiative 732 base" means the prior year's annual salary cost-of-living increases as they would have been calculated under chapter 4, Laws of 2001, as approved by the voters, if each annual cost-of-living increase had been made in previous years and in each subsequent year as provided for under chapter 4, Laws of 2001.

(9) Funds collected from transportation vehicle fund tax levies shall not be subject to the levy limitations in this section.

(10) The superintendent of public instruction shall develop rules ~~((and regulations))~~ and inform school districts of the pertinent data necessary to carry out the provisions of this section.

(11) For calendar year 2009, the office of the superintendent of public instruction shall recalculate school district levy authority to reflect levy rates certified by school districts for calendar year 2009.

NEW SECTION. Sec. 2. A new section is added to chapter 84.52 RCW to read as follows:

The legislature recognizes that school districts request voter approval for two-year through four-year levies based on their projected levy capacities at the time that the levies are submitted

to the voters. It is the intent of the legislature to permit school districts with voter-approved maintenance and operation levies to seek an additional approval from the voters, if subsequently enacted legislation would permit a higher levy.

Sec. 3. RCW 84.52.053 and 2007 c 129 s 3 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2)(f), in the year in which the first annual levy is made.

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1) of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized, except for additional levies to provide for subsequently enacted increases affecting the district's levy base or maximum levy percentage. For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no".

Sec. 4. 2006 c 119 s 3 (uncodified) is amended to read as follows:

This act expires January 1, ~~((2012))~~ 2015.

Sec. 5. 2009 c 4 s 909 (uncodified) is amended to read as follows:

Section 908 of this act expires January 1, ~~((2012))~~ 2015."

Senator McAuliffe 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. 1776.

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 1 of the title, after "levies;" strike the remainder of the title and insert "amending RCW 84.52.0531 and 84.52.053; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); adding a new section to chapter 84.52 RCW; and providing expiration dates."

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MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 1776 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 McAuliffe spoke in favor of passage of the bill.

MOTION

On motion of Senator Delvin, Senator Hewitt was excused.

MOTION

On motion of Senator Marr, Senators Brown, Rockefeller and Shin were excused.

Senator King spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1776 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Tom and Zarelli

Voting nay: Senators Becker, Carrell, Delvin, Holmquist, Honeyford, King, McCaslin, Morton, Stevens and Swecker

Excused: Senators Rockefeller and Shin

SUBSTITUTE HOUSE BILL NO. 1776 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.

SIGNED BY THE PRESIDENT

The President has signed:
 SUBSTITUTE HOUSE BILL NO. 1022,
 HOUSE BILL NO. 1063,
 HOUSE BILL NO. 1264,
 SUBSTITUTE HOUSE BILL NO. 1397,
 SUBSTITUTE HOUSE BILL NO. 1413,
 SUBSTITUTE HOUSE BILL NO. 1419,
 HOUSE BILL NO. 1426,
 ENGROSSED HOUSE BILL NO. 1461,
 HOUSE BILL NO. 1498,
 SUBSTITUTE HOUSE BILL NO. 1505,
 SECOND SUBSTITUTE HOUSE BILL NO. 1522,
 SUBSTITUTE HOUSE BILL NO. 1532,
 HOUSE BILL NO. 1578,
 SUBSTITUTE HOUSE BILL NO. 1733,
 SUBSTITUTE HOUSE BILL NO. 1984,
 SUBSTITUTE HOUSE BILL NO. 2052,
 ENGROSSED SUBSTITUTE HOUSE BILL NO. 2105,
 HOUSE JOINT MEMORIAL NO. 4000,
 HOUSE JOINT MEMORIAL NO. 4005,

PERSONAL PRIVILEGE

Senator Benton: "Thank you Mr. President, ladies and gentlemen of the Senate. Today is a very special day. It is the birthday of a very unique person. An individual that has given a lot to this state and quite frankly I don't think it would be appropriate to let the day go without recognizing her. April 16, 1823, she was born in a farm house near St. Elser, Quebec. In 1856, thirty-three years later at the age of thirty-three, Mother Joseph led a group of five nuns to the Pacific Northwest Territories. In 1858, just two years later she opened the first hospital, St. Joseph's hospital in Vancouver, WA. One tiny room with four beds and benches all carved by her. She was a fantastic wood working expert. I mean, she was a construction expert as well. It's said that Mother Joseph would inspect construction of the hospitals, the eleven hospitals that she ultimately was responsible for building, would inspect the construction and when she identified faulty construction would rip it out herself and actually many times quite remarkably repair the faulty construction herself. This is an incredible woman and today is her birthday and I had breakfast with a dear friend this morning from Vancouver who reminded me, who happens to serve on the Board of Directors of the Southwest Washington Medical Center which, of course, started out as St. Joseph's and he reminded me that today is the birthday of Mother Joseph. You know, she's the only individual in the entire United States who's statue both graces the Capitol of her state and graces the Capitol of the United States as well. Her statue appears in Statuary Hall in the United States Congress and it also appears down here on our second floor. I went down this morning because I promised my friend that I would say a little prayer in front of St. Joseph's statue this morning remembering her and remembering her incredible contributions to this state and I wanted to just bring this to everyone else's attention. Eleven hospitals, seven academies, five Indian schools and two orphanages, not just here in Washington but throughout what was then the Northwest Territories, Oregon, Idaho, and of course, Washington State. Just an incredible person, even parts of Montana at that time, a stickler for details she was. A stickler for detail and I'm told an incredible fund raiser, an incredible fund raiser. So, I just wanted to remind people. Yes, it is personal because it touches it in Vancouver and I think it touches the rest of us in this state. The legacy that this woman has left for us has been incredible and so please let's take a moment to remember the contribution of Mother Joseph's to our great state and to our nation. Thank you Mr. President."

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 1946, by House Committee on Education Appropriations (originally sponsored by Representatives Carlyle, Anderson, Wallace, Angel, White, Schmick, Hasegawa, Goodman, Sullivan, Haigh, Hudgins, Kenney and Maxwell)

Regarding higher education online technology.

The measure was read the second time.

MOTION

Senator Kilmer 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:

"NEW SECTION. Sec. 1. The legislature recognizes that the state must educate more people to higher levels to adapt to the economic and social needs of the future. While our public

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colleges and universities have realized great success in helping students achieve their dreams, the legislature also recognizes that much more must be done to prepare current and future students for a twenty-first century economy. To raise the levels of skills and knowledge needed to sustain the state's economic prosperity and competitive position in a global environment, the public higher education system must reach out to every prospective student and citizen in unprecedented ways, with unprecedented focus.

To reach out to these citizens, the state must dismantle the barriers of geographic isolation, cost, and competing demands of work and family life. The state must create a more nimble system of learning that is student-centric, more welcoming of nontraditional and underserved students, easier to access and use, and more tailored to today's student needs and expectations.

Technology can play a key role in helping achieve this systemic goal. While only a decade ago access to personal computers was widely viewed a luxury, today computers, digital media, electronic information, and content have changed the nature of how students learn and instructors teach. This presents a vast, borderless opportunity to extend the reach and impact of the state's public educational institutions and educate more people to higher levels.

Each higher education institution and workforce program serves a unique group of students and as such, has customized its own technology solutions to meet its emerging needs. While local solutions may have served institutions of higher education in the past, paying for and operating multiple technology solutions, platforms, systems, models, agreements, and operational functionality for common applications and support services no longer serves students or the state.

Today's students access education differently. Rather than enrolling in one institution of higher education, staying two to four years and graduating, today's learners prefer a cafeteria approach; they often enroll in and move among multiple institutions - sometimes simultaneously. Rather than sitting in lecture halls taking notes, they may listen to podcasts of a lecture while grocery shopping or hold a virtual study group with classmates on a video chat room. They may prefer hybrid courses where part of their time is spent in the classroom and part is spent online. They prefer online access for commodity administrative services such as financial aid, admissions, transcript services, and more.

Institutions of higher education not only must rethink teaching and learning in a digital-networked world, but also must tailor their administrative and student services technologies to serve the mobile student who requires dynamic, customized information online and in real time. Because these relationships are changing so fast and so fundamentally, it is incumbent on the higher education system to transform its practices just as profoundly.

Therefore, the legislature intends to both study and implement its findings regarding how the state's public institutions of higher education can share core resources in instructional, including library, resources, student services, and administrative information technology resources, user help desk services, faculty professional development, and more. The study will examine how public institutions of higher education can pursue a strategy of implementing single, shared, statewide commonly needed standards-based software, web hosting and support service solutions that are cost-effective, easily integrated, user-friendly, flexible, and constantly improving. The full range of applications that serve students, faculty, and administration shall be included. Expensive, proprietary, nonstandards-based customized applications, databases and

services, and other resources that do not allow for the transparent sharing of information across institutions, agencies, and educational levels, including K-12, are inconsistent with the state's objective of educating more people to higher levels.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW to read as follows:

All institutions of higher education are encouraged to use common online learning technologies including, but not limited to, existing learning management and web conferencing systems currently managed and governed by the state board for community and technical colleges; and share professional development materials and activities related to effective use of these tools. The state board for community and technical colleges may adjust existing vendor licenses to accommodate and provide enterprise services for any interested institutions of higher education. The common learning management system shall be designed in a way that allows for easy sharing of courses, learning objects, and other digital content among the institutions of higher education. Institutions of higher education may begin migration to these common systems immediately. The state board for community and technical colleges shall convene representatives from each four-year institution of higher education to develop a shared fee structure.

NEW SECTION. Sec. 3. (1) The higher education coordinating board shall convene a higher education technology transformation task force to improve the efficiency, effectiveness, and quality of education relative to the strategic and operational use of technology in public education.

(2) The task force shall be composed of one member from each public four-year institution of higher education; six members from the community and technical colleges; two faculty members from four-year institutions of higher education, at least one of whom is selected by statewide bargaining representatives; two faculty members from community or technical colleges, at least one of whom is selected by statewide bargaining representatives; and one member each from the state board for community and technical colleges; the higher education coordinating board; the workforce training and education coordinating board; the department of information services; and the council of presidents. The task force shall select a chair from its membership.

(3) The task force shall prepare a report that includes a plan to improve the efficiency, effectiveness, and quality of public higher education relative to the strategic and operational use of technology in higher education.

(4) In developing the plan, the institutions of higher education and their partners, identified in this section, shall take the following actions:

(a) Investigate similar efforts, strategies, programs, and options in other states, of private providers of higher education in the state, and global consortia related to:

(i) Online learning technologies including but not limited to: Learning management, ePortfolio, web conferencing systems, and other education applications;

(ii) Personalized online student services including but not limited to: Recruitment, admissions, retention, advising, academic planning, course catalogs, transfer, and financial aid management;

(iii) Integrated online administrative tools including but not limited to: Student information management; financial management; payroll; human resources; and data collection, reporting, and analysis;

(iv) Sharing library resources including but not limited to: Copyrighted physical and e-books, and consolidated electronic journals and research database licensing and other models;

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(v) Methods and open licensing options for effectively sharing digital content including but not limited to: Open courseware, open textbooks, open journals, and open learning objects;

(vi) Methods for pooling, coordinating, and otherwise more efficiently managing enrollments so colleges with extra enrollment space in online courses can easily and efficiently make those spaces available to students at other colleges, or to high school students through existing dual-credit programs, without economic, governance, or institutional penalty or disincentive from the provider or recipient institution;

(vii) Methods for ensuring online courses meet agreed upon instructional guidelines, policies, and quality, and methods for sharing these best practices to improve traditional courses' quality;

(b) Develop a process and timeline for the implementation of a statewide approach based on the investigation in (a) of this subsection;

(c) Focus on statewide capability and standards that enable the efficient use of common applications, web hosting services, user support, staff training, and consolidated software licenses and open educational resources;

(d) Identify the metrics that can be used to gauge success;

(e) Conduct a comprehensive audit of existing resources used by public institutions of higher education or agencies including but not limited to technology-related: Employees; infrastructure; application licenses and costs; web hosting facilities and services; digital content licenses; student, faculty, and administrative applications and services; and the amounts and uses of technology fees charged to students. The failure of the individual public institution of higher education or agency to fully, accurately, and thoroughly account for these resources and fees in detail shall expressly be stated in the task force report;

(f) Recommend strategies and specific tactics to: (i) Reduce duplication of applications, web hosting, and support services; (ii) effectively and efficiently use technology to share costs, data, and faculty professional development; (iii) improve the quality of instruction; and (iv) increase student access, transfer capability, and the quality of student, faculty, and administration services; and

(g) Recommend governance models, funding models, and accountability measures to achieve these and related objectives.

(5) Subject to funds for this specific purpose, the higher education coordinating board shall engage an independent expert to conduct an independent technical analysis of the findings of the comprehensive technology audits outlined in subsection (4)(e) of this section.

(6) The public institutions of higher education and their partners shall jointly report their findings and recommendations to the appropriate committees of the legislature by December 1, 2010. A preliminary report shall be delivered to appropriate committees of the legislature by December 1, 2009.

NEW SECTION. Sec. 4. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Senator Kilmer 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 Second Substitute House Bill No. 1946.

The motion by Senator Kilmer 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 "technology;" strike the remainder of the title and insert "adding a new section to chapter 28B.10 RCW; and creating new sections."

MOTION

On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 1946 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 Kilmer and Becker spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Haugen was excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 1946 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1946 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen, Rockefeller and Shin

SECOND SUBSTITUTE HOUSE BILL NO. 1946 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. 2132, by Representatives Quall, Anderson, Carlyle, Dammeier, Probst, Sullivan, Johnson, Hudgins, Kelley, Chase, Wood and Santos

Regarding instruction in civics.

The measure was read the second time.

MOTION

On motion of Senator McAuliffe, the rules were suspended, House Bill No. 2132 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators McAuliffe and Franklin 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. 2132.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 2132 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen, Rockefeller and Shin

HOUSE BILL NO. 2132, 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. 1701, by House Committee on Ways & Means (originally sponsored by Representatives Hudgins, McCoy and Hasegawa)

Authorizing the department of information services to engage in high-speed internet activities.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities. Such deployment also offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents. The legislature further finds that improvements in the deployment and adoption of high-speed internet services and the strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(2) The legislature intends to support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology. The legislature further intends to ensure that all Washington citizens, businesses, schools, and organizations are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, structure, or size. In addition, the legislature intends that a statewide assessment of the availability, location, service levels, and other characteristics of high-speed internet services and other advanced telecommunications services in the state be conducted.

(3) In recognition of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is the purpose of this act to make high-speed internet service more readily available

throughout the state, especially in areas with a low utilization rate.

NEW SECTION. Sec. 2. (1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of sections 3 through 5 of this act. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of information services is the single eligible entity in the state for purposes of the federal broadband data improvement act, P.L. 110-385, Title I.

(3) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, Title I, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(4) The department of information services shall consult with the department of community, trade, and economic development or its successor agency, the office of financial management, and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies.

NEW SECTION. Sec. 3. (1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and creating a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency.

NEW SECTION. Sec. 4. (1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet

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deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the completed map. For the purpose of RCW 42.56.010(2), the purchase by the department of a completed map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of the effective date of this section will not cease to be publicly available due to any provision of this act.

NEW SECTION. Sec. 5. (1) The department, in coordination with the department of community, trade, and economic development and the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Future reports based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year.

Sec. 6. RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read as follows:

The community technology opportunity program is created to support the efforts of community technology programs throughout the state. The community technology opportunity program must be administered by the ~~((Washington State University extension, in consultation with the))~~ department of information services. The ~~((Washington State University extension))~~ department may contract for services in order to carry out the ~~((extension's))~~ department's obligations under this section.

(1) In implementing the community technology opportunity program the administrator must, to the extent funds are

appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the administrator for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the administrator establishes.

(3) The administrator may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The administrator must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

Sec. 7. RCW 43.105.020 and 2003 c 18 s 2 are each amended to read as follows:

~~((As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:))~~ The definitions in this section apply throughout this chapter unless the context clearly required otherwise.

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Committee" means the state interoperability executive committee;

(4) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(5) "Director" means the director of the department;

(6) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary

functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(7) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(8) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(9) "Information" includes, but is not limited to, data, text, voice, and video;

(10) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(11) "Information services" means data processing, telecommunications, office automation, and computerized information systems;

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment;

(13) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments;

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications;

(15) "Proprietary software" means that software offered for sale or license;

(16) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW;

(17) "K-20 educational network board" or "K-20 board" means the K-20 educational network board created in RCW 43.105.800;

(18) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810;

(19) "K-20 network" means the network established in RCW 43.105.820;

(20) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board;

(21) "Administrator" means the community technology opportunity program administrator designated by the department;

(22) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and

underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology;

(23) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies;

(24) "Council" means the advisory council on digital inclusion created in section 10 of this act;

(25) "High-speed internet" means broadband;

(26) "Underserved areas" means: (a) Areas in which high-speed internet download speeds and upload speeds are significantly below the state norm; (b) any census tract that is located in a federally designated empowerment zone, enterprise community, renewal community, or low-income community; (c) an area with a significant population of economically disadvantaged residents; or (d) an area in which a significant population of the residents are not able to adopt broadband because of disability, affordability of computers or software, or a lack of technological literacy.

Sec. 8. RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants authorized under Division B, Title VI of the American recovery and reinvestment act of 2009, legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only ~~(for)~~ as matching funds for federal and other grants to fund the operation of the community technology opportunity program ~~(as provided in RCW 28B.32.040)~~ under this chapter and to fund other activities authorized in this act. Only the ~~(administrator)~~ director or the ~~(administrator's)~~ director's designee may authorize expenditures from the account.

NEW SECTION. Sec. 9. (1) The governor may take all appropriate steps to carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and maximize investment in broadband deployment and adoption in the state of Washington consistent with this act. Such steps may include the designation of a broadband deployment coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts in the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 28B.32.030 (as recodified by this act), may oversee implementation of federally funded or mandated broadband programs and may adopt rules to administer the programs. These programs may include but are not limited to the following:

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(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet, computer, and related information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under chapter 28B.32 RCW (as recodified by this act);

(f) Creating additional programs to spur the development of high-speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing last-mile technology loan programs targeting small businesses or businesses located in unserved and underserved areas.

NEW SECTION. Sec. 10. (1) Subject to the availability of federal or state funding, the department may reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is an advisory group to the department. The council must include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and governmental entities that are engaged in community technology activities.

(2) The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities.

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. Sections 2 through 5, 9, and 10 of this act are each added to chapter 43.105 RCW.

NEW SECTION. Sec. 13. RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and

(2) RCW 43.105.350 (Request for information from providers--Limitation) and 2008 c 262 s 3.

NEW SECTION. Sec. 15. 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. 16. 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 July 1, 2009.

NEW SECTION. Sec. 17. (1) If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

On page 1, line 2 of the title, after "activities;" strike the remainder of the title and insert "amending RCW 28B.32.010, 43.105.020, and 28B.32.030; adding new sections to chapter 43.105 RCW; creating new sections; recodifying RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and 43.105.350; providing an effective date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Second Substitute House Bill No. 1701.

The motion by Senator Kastama carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following striking amendment by Senators Kastama, Kohl-Welles and Zarelli be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) The legislature finds that the deployment and adoption of high-speed internet services and technology advancements enhance economic development and public safety for the state's communities. Such deployment also offers improved health care, access to consumer and legal services, increased educational and civic participation opportunities, and a better quality of life for the state's residents. The legislature further finds that improvements in the deployment and adoption of high-speed internet services and the

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strategic inclusion of technology advancements and technology education are critical to ensuring that Washington remains competitive and continues to provide a skilled workforce, attract businesses, and stimulate job growth.

(2) The legislature intends to support strategic partnerships of public, private, nonprofit, and community-based sectors in the continued growth and development of high-speed internet services and information technology. The legislature further intends to ensure that all Washington citizens, businesses, schools, and organizations are able to obtain and utilize broadband fully, regardless of location, economic status, literacy level, age, disability, structure, or size. In addition, the legislature intends that a statewide assessment of the availability, location, service levels, and other characteristics of high-speed internet services and other advanced telecommunications services in the state be conducted.

(3) In recognition of the importance of broadband deployment and adoption to the economy, health, safety, and welfare of the people of Washington, it is the purpose of this act to make high-speed internet service more readily available throughout the state, especially in areas and for populations with a low utilization rate.

NEW SECTION. Sec. 2. (1) The broadband mapping account is established in the custody of the state treasurer. The department shall deposit into the account such funds received from legislative appropriation, federal grants authorized under the federal broadband data improvement act, P.L. 110-385, Title I, and donated funds from private and public sources. Expenditures from the account may be used only for the purposes of sections 3 through 5 of this act. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) The department of information services is the single eligible entity in the state for purposes of the federal broadband data improvement act, P.L. 110-385, Title I.

(3) Funding received by the department under the federal broadband data improvement act, P.L. 110-385, Title I, must be used in accordance with the requirements of that act and, subject to those requirements, may be distributed by the department on a competitive basis to other entities in the state to achieve the purposes of that act.

(4) The department of information services shall consult with the department of community, trade, and economic development or its successor agency, the office of financial management, and the utilities and transportation commission in coordinating broadband mapping activities. In carrying out any broadband mapping activities, the provisions of P.L. 110-385, Title I, regarding trade secrets, commercial or financial information, and privileged or confidential information submitted by the federal communications commission or a broadband provider are deemed to encompass the consulted agencies.

NEW SECTION. Sec. 3. (1) Subject to the availability of federal or state funding, the department may:

(a) Develop an interactive web site to allow residents to self-report whether high-speed internet is available at their home or residence and at what speed; and

(b) Conduct a detailed survey of all high-speed internet infrastructure owned or leased by state agencies and creating a geographic information system map of all high-speed internet infrastructure owned or leased by the state.

(2) State agencies responding to a survey request from the department under subsection (1)(b) of this section shall respond in a reasonable and timely manner, not to exceed one hundred twenty days. The department shall request of state agencies, at a minimum:

(a) The total bandwidth of high-speed internet infrastructure owned or leased;

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(b) The cost of maintaining that high-speed internet infrastructure, if owned, or the price paid for the high-speed internet infrastructure, if leased; and

(c) The leasing entity, if applicable.

(3) The department may adopt rules as necessary to carry out the provisions of this section.

(4) For purposes of this section, "state agency" includes every state office, department, division, bureau, board, commission, or other state agency.

NEW SECTION. Sec. 4. (1) The department is authorized, through a competitive bidding process, to procure on behalf of the state a geographic information system map detailing high-speed internet infrastructure, service availability, and adoption. This geographic information system map may include adoption information, availability information, type of high-speed internet deployment technology, and available speed tiers for high-speed internet based on any publicly available data.

(2) The department may procure this map either by:

(a) Contracting for and purchasing a completed map from a third party; or

(b) Working directly with the federal communications commission to accept publicly available data.

(3) The department shall establish an accountability and oversight structure to ensure that there is transparency in the bidding and contracting process and full financial and technical accountability for any information or actions taken by a third-party contractor creating this map.

(4) In contracting for purchase of the map in subsection (2)(a) of this section, the department may take no action, nor impose any condition on the third party, that causes any record submitted by a public or private broadband service provider to the third party to meet the standard of a public record as defined in RCW 42.56.010. This prohibition does not apply to any records delivered to the department by the third party as a component of the completed map. For the purpose of RCW 42.56.010(2), the purchase by the department of a completed map may not be deemed use or ownership by the department of the underlying information used by the third party to complete the map.

(5) Data or information that is publicly available as of the effective date of this section will not cease to be publicly available due to any provision of this act.

NEW SECTION. Sec. 5. (1) The department, in coordination with the department of community, trade, and economic development and the utilities and transportation commission, and such advisors as the department chooses, may prepare regular reports that identify the following:

(a) The geographic areas of greatest priority for the deployment of advanced telecommunications infrastructure in the state;

(b) A detailed explanation of how any amount of funding received from the federal government for the purposes of broadband mapping, deployment, and adoption will be or have been used; and

(c) A determination of how nonfederal sources may be utilized to achieve the purposes of broadband mapping, deployment, and adoption activities in the state.

(2) To the greatest extent possible, the initial report should be based upon the information identified in the geographic system maps developed under the requirements of this chapter.

(3) The initial report should be delivered to the appropriate committees of the legislature as soon as feasible, but no later than January 18, 2010.

(4) Future reports based upon the requirements of subsection (1) of this section should be delivered to the appropriate committees of the legislature by January 15th of each year.

Sec. 6. RCW 28B.32.010 and 2008 c 262 s 6 are each amended to read as follows:

The community technology opportunity program is created to support the efforts of community technology programs

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throughout the state. The community technology opportunity program must be administered by the ~~((Washington State University extension, in consultation with the))~~ department of information services. The ~~((Washington State University extension))~~ department may contract for services in order to carry out the ~~((extension's))~~ department's obligations under this section.

(1) In implementing the community technology opportunity program the administrator must, to the extent funds are appropriated for this purpose:

(a) Provide organizational and capacity building support to community technology programs throughout the state, and identify and facilitate the availability of other public and private sources of funds to enhance the purposes of the program and the work of community technology programs. No more than fifteen percent of funds received by the administrator for the program may be expended on these functions;

(b) Establish a competitive grant program and provide grants to community technology programs to provide training and skill-building opportunities; access to hardware and software; internet connectivity; digital media literacy; assistance in the adoption of information and communication technologies in low-income and underserved areas of the state; and development of locally relevant content and delivery of vital services through technology.

(2) Grant applicants must:

(a) Provide evidence that the applicant is a nonprofit entity or a public entity that is working in partnership with a nonprofit entity;

(b) Define the geographic area or population to be served;

(c) Include in the application the results of a needs assessment addressing, in the geographic area or among the population to be served: The impact of inadequacies in technology access or knowledge, barriers faced, and services needed;

(d) Explain in detail the strategy for addressing the needs identified and an implementation plan including objectives, tasks, and benchmarks for the applicant and the role that other organizations will play in assisting the applicant's efforts;

(e) Provide evidence of matching funds and resources, which are equivalent to at least one-quarter of the grant amount committed to the applicant's strategy;

(f) Provide evidence that funds applied for, if received, will be used to provide effective delivery of community technology services in alignment with the goals of this program and to increase the applicant's level of effort beyond the current level; and

(g) Comply with such other requirements as the administrator establishes.

(3) The administrator may use no more than ten percent of funds received for the community technology opportunity program to cover administrative expenses.

(4) The administrator must establish expected program outcomes for each grant recipient and must require grant recipients to provide an annual accounting of program outcomes.

Sec. 7. RCW 43.105.020 and 2003 c 18 s 2 are each amended to read as follows:

~~((As used in this chapter, unless the context indicates otherwise, the following definitions shall apply:))~~ The definitions in this section apply throughout this chapter unless the context clearly required otherwise.

(1) "Department" means the department of information services;

(2) "Board" means the information services board;

(3) "Committee" means the state interoperability executive committee;

(4) "Local governments" includes all municipal and quasi municipal corporations and political subdivisions, and all agencies of such corporations and subdivisions authorized to contract separately;

(5) "Director" means the director of the department;

(6) "Purchased services" means services provided by a vendor to accomplish routine, continuing, and necessary functions. This term includes, but is not limited to, services acquired for equipment maintenance and repair, operation of a physical plant, security, computer hardware and software installation and maintenance, telecommunications installation and maintenance, data entry, keypunch services, programming services, and computer time-sharing;

(7) "Backbone network" means the shared high-density portions of the state's telecommunications transmission facilities. It includes specially conditioned high-speed communications carrier lines, multiplexors, switches associated with such communications lines, and any equipment and software components necessary for management and control of the backbone network;

(8) "Telecommunications" means the transmission of information by wire, radio, optical cable, electromagnetic, or other means;

(9) "Information" includes, but is not limited to, data, text, voice, and video;

(10) "Information processing" means the electronic capture, collection, storage, manipulation, transmission, retrieval, and presentation of information in the form of data, text, voice, or image and includes telecommunications and office automation functions;

(11) "Information services" means data processing, telecommunications, office automation, and computerized information systems;

(12) "Equipment" means the machines, devices, and transmission facilities used in information processing, such as computers, word processors, terminals, telephones, wireless communications system facilities, cables, and any physical facility necessary for the operation of such equipment;

(13) "Information technology portfolio" or "portfolio" means a strategic management process documenting relationships between agency missions and information technology and telecommunications investments;

(14) "Oversight" means a process of comprehensive risk analysis and management designed to ensure optimum use of information technology resources and telecommunications;

(15) "Proprietary software" means that software offered for sale or license;

(16) "Video telecommunications" means the electronic interconnection of two or more sites for the purpose of transmitting and/or receiving visual and associated audio information. Video telecommunications shall not include existing public television broadcast stations as currently designated by the department of community, trade, and economic development under chapter 43.330 RCW;

(17) "K-20 educational network board" or "K-20 board" means the K-20 educational network board created in RCW 43.105.800;

(18) "K-20 network technical steering committee" or "committee" means the K-20 network technical steering committee created in RCW 43.105.810;

(19) "K-20 network" means the network established in RCW 43.105.820;

(20) "Educational sectors" means those institutions of higher education, school districts, and educational service districts that use the network for distance education, data transmission, and other uses permitted by the K-20 board;

(21) "Administrator" means the community technology opportunity program administrator designated by the department;

(22) "Community technology programs" means programs that are engaged in diffusing information and communications technology in local communities, particularly in unserved and underserved areas of the state. These programs may include, but are not limited to, programs that provide education and skill-building opportunities, hardware and software, internet

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connectivity, digital media literacy, development of locally relevant content, and delivery of vital services through technology;

(23) "Broadband" means a high-speed, high capacity transmission medium, using land-based, satellite, wireless, or any other mechanism, that can carry either signals or transmit data, or both, over long distances by using a wide range of frequencies;

(24) "Council" means the advisory council on digital inclusion created in section 10 of this act;

(25) "High-speed internet" means broadband.

Sec. 8. RCW 28B.32.030 and 2008 c 262 s 8 are each amended to read as follows:

The Washington community technology opportunity account is established in the state treasury. The governor or the governor's designee and the director or the director's designee shall deposit into the account federal grants to the state authorized under Division B, Title VI of the American recovery and reinvestment act of 2009, legislative appropriations, and donated funds from private and public sources for purposes related to broadband deployment and adoption, including matching funds required by the act. Donated funds from private and public sources may be deposited into the account. Expenditures from the account may be used only ((for) as matching funds for federal and other grants to fund the operation of the community technology opportunity program ((as provided in RCW 28B.32.010)) under this chapter and to fund other activities authorized in this act. Only the ((administrator)) director or the ((administrator's)) director's designee may authorize expenditures from the account.

NEW SECTION. Sec. 9. (1) The governor may take all appropriate steps to carry out the purposes of Division B, Title VI of the American recovery and reinvestment act of 2009, P.L. 111-5, and maximize investment in broadband deployment and adoption in the state of Washington consistent with this act. Such steps may include the designation of a broadband deployment and adoption coordinator; review and prioritization of grant applications by public and private entities as directed by the national telecommunications and information administration, the rural utility services, and the federal communications commission; disbursement of block grant funding; and direction to state agencies to provide staffing as necessary to carry out this section. The authority for overseeing broadband adoption and deployment efforts on behalf of the state is vested in the department.

(2) The department may apply for federal funds and other grants or donations, may deposit such funds in the Washington community technology opportunity account created in RCW 28B.32.030 (as recodified by this act), may oversee implementation of federally funded or mandated broadband programs for the state and may adopt rules to administer the programs. These programs may include but are not limited to the following:

(a) Engaging in periodic statewide surveys of residents, businesses, and nonprofit organizations concerning their use and adoption of high-speed internet, computer, and related information technology for the purpose of identifying barriers to adoption;

(b) Working with communities to identify barriers to the adoption of broadband service and related information technology services by individuals, nonprofit organizations, and businesses;

(c) Identifying broadband demand opportunities in communities by working cooperatively with local organizations, government agencies, and businesses;

(d) Creating, implementing, and administering programs to improve computer ownership, technology literacy, digital media literacy, and high-speed internet access for populations not currently served or underserved in the state. This may include programs to provide low-income families, community-based nonprofit organizations, nonprofit entities, and public entities

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that work in partnership with nonprofit entities to provide increased access to computers and broadband, with reduced cost internet access;

(e) Administering the community technology opportunity program under chapter 28B.32 RCW (as recodified by this act);

(f) Creating additional programs to spur the development of high-speed internet resources in the state;

(g) Establishing technology literacy and digital inclusion programs and establishing low-cost hardware, software, and internet purchasing programs that may include allowing participation by community technology programs in state purchasing programs; and

(h) Developing technology loan programs targeting small businesses or businesses located in unserved and underserved areas.

NEW SECTION. Sec. 10. (1) Subject to the availability of federal or state funding, the department may reconvene the high-speed internet work group previously established by chapter 262, Laws of 2008. The work group is renamed the advisory council on digital inclusion, and is an advisory group to the department. The council must include, but is not limited to, volunteer representatives from community technology organizations, telecommunications providers, higher education institutions, K-12 education institutions, public health institutions, public housing entities, and local government and other governmental entities that are engaged in community technology activities.

(2) The council shall prepare a report by January 15th of each year and submit it to the department, the governor, and the appropriate committees of the legislature. The report must contain:

(a) An analysis of how support from public and private sector partnerships, the philanthropic community, and other not-for-profit organizations in the community, along with strong relationships with the state board for community and technical colleges, the higher education coordinating board, and higher education institutions, could establish a variety of high-speed internet access alternatives for citizens;

(b) Proposed strategies for continued broadband deployment and adoption efforts, as well as further development of advanced telecommunications applications;

(c) Recommendations on methods for maximizing the state's research and development capacity at universities and in the private sector for developing advanced telecommunications applications and services, and recommendations on incentives to stimulate the demand for and development of these applications and services;

(d) An identification of barriers that hinder the advancement of technology entrepreneurship in the state; and

(e) An evaluation of programs designed to advance digital literacy and computer access that are made available by the federal government, local agencies, telecommunications providers, and business and charitable entities.

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. Sections 2 through 5, 9, and 10 of this act are each added to chapter 43.105 RCW.

NEW SECTION. Sec. 13. RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901 are each recodified as sections in chapter 43.105 RCW.

NEW SECTION. Sec. 14. The following acts or parts of acts are each repealed:

(1) RCW 28B.32.020 (Definitions) and 2008 c 262 s 7; and

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(2) RCW 43.105.350 (Request for information from providers--Limitation) and 2008 c 262 s 3.

NEW SECTION. Sec. 15. 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. 16. 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 July 1, 2009.

NEW SECTION. Sec. 17. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

The President declared the question before the Senate to be the adoption of the striking amendment by Senators Kastama, Kohl-Welles and Zarelli to Engrossed Second Substitute House Bill No. 1701.

The motion by Senator Kastama 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 "activities;" strike the remainder of the title and insert "amending RCW 28B.32.010, 43.105.020, and 28B.32.030; adding new sections to chapter 43.105 RCW; creating new sections; recodifying RCW 28B.32.010, 28B.32.030, 28B.32.900, and 28B.32.901; repealing RCW 28B.32.020 and 43.105.350; providing an effective date; and declaring an emergency."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 1701 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 Kastama and Kohl-Welles 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. 1701 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1701 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Absent: Senator Brandland

Excused: Senators Haugen, Rockefeller and Shin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1701 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

SECOND SUBSTITUTE HOUSE BILL NO. 1355, by House Committee on Ways & Means (originally sponsored by Representatives Probst, Quall, Kessler, Sullivan, Wallace, Maxwell, Rolfes, Springer, Green, Jacks, Carlyle, Kenney, Ormsby, Seaquist, Lias, Sells, Priest, Dammeier, Hunt, Hudgins, Morrell, Van De Wege, Moeller, Chase, Conway, Goodman, Driscoll, Simpson, Santos and Kelley)

Establishing the opportunity internship program for high school students.

The measure was read the second time.

MOTION

On motion of Senator Kilmer, the rules were suspended, Second Substitute House Bill No. 1355 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Kilmer 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. 1355.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 1355 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 18; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Sheldon and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens, Swecker and Zarelli

Excused: Senators Haugen and Shin

SECOND SUBSTITUTE HOUSE BILL NO. 1355, 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. 1986, by Representatives Hasegawa, Anderson, Wallace, White and Sells

Authorizing a peer mentoring pilot program at Western Washington University and a community or technical college.

The measure was read the second time.

MOTION

Senator Kilmer 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:

"NEW SECTION. Sec. 1. The legislature finds that peer mentoring provides tangible and long-lasting opportunities for all students, especially for low-income students, students of color, and first generation students. These benefits include improved student achievement and planning for success in postsecondary education. The legislature further finds that

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mentoring increases the self-worth of both mentees and mentors, while cultivating opportunities to improve communication skills and develop and enhance leadership and other critical transferable skills. Furthermore, the legislature finds that mentorship provides a valuable opportunity to increase student interest in career opportunities in the counseling and teaching professions, and thus intends to support those efforts to the maximum extent possible.

NEW SECTION. Sec. 2. A new section is added to chapter 28B.12 RCW to read as follows:

(1) Western Washington University shall create and implement a pilot mentoring program to inspire academic success and introduce elementary students to educational opportunities. In addition to establishing a pilot project on its own campus, the university, in close collaboration with the state board for community and technical colleges, shall jointly identify a community or technical college to participate in the pilot program. The community or technical college selected shall demonstrate active partnerships with interested common schools, local businesses, and community organizations. Western Washington University and the state board for community and technical colleges shall identify the community or technical college by August 1, 2009.

(2) The state board for community and technical colleges shall work in close collaboration with Western Washington University to identify a community or technical college to participate in the pilot mentoring program.

(3) The goals of the pilot project are to:

(a) Encourage at-risk elementary school students to complete high school and attend college, boosting the percentage of Washington students who continue onto college;

(b) Provide positive role models for at-risk students and allow college students the opportunity to perform community service;

(c) Strengthen relationships between the community, the university, and area youth;

(d) Introduce at-risk students to college and provide them an opportunity to experience their public colleges and universities;

(e) Increase the number of youth who view going to college as both necessary and achievable; and

(f) Develop a model that is scalable statewide.

(4) Within existing resources, the pilot institutions shall:

(a) Recruit college students interested in serving as mentors to elementary school students;

(b) Identify local elementary schools with demonstrated need for a mentoring program;

(c) Develop a curriculum used for training college mentors. The college may grant college-level credit to students who complete the course;

(d) Develop any necessary contracts or interagency agreements to facilitate program implementation;

(e) Provide ongoing support and oversight of the program;

(f) Solicit grants, awards, and gifts from individuals, businesses, agencies, and foundations;

(g) Provide community outreach and publicity for the program;

(h) Develop appropriate outcome measures and evaluate the program at regular intervals;

(i) Together with the state board for community and technical colleges and in close collaboration with other community and institutional partners, submit to the legislature:

(i) A preliminary progress report by December 1, 2010, that includes a review of preliminary findings from the pilot project, recommendations regarding the resources necessary to expand

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the model statewide, and a process and timeline for statewide implementation; and

(ii) A final report, updating the findings from the preliminary report, by December 1, 2011."

Senator Kilmer 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 House Bill No. 1986.

The motion by Senator Kilmer 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 "mentoring;" strike the remainder of the title and insert "adding a new section to chapter 28B.12 RCW; and creating a new section."

MOTION

On motion of Senator Kilmer, the rules were suspended, Engrossed House Bill No. 1986 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 Kilmer spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1986 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1986 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen and Shin

ENGROSSED HOUSE BILL NO. 1986 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 SUBSTITUTE HOUSE BILL NO. 1619, by House Committee on Capital Budget (originally sponsored by Representatives White, Kenney, Sullivan, Carlyle, Nelson, Hasegawa, Lias, Green, Miloscia, Orwall, Maxwell and Simpson)

Concerning the use of capital projects funds by school districts.

The measure was read the second time.

MOTION

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Senator Fraser 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 28A.320.330 and 2007 c 503 s 2 and 2007 c 129 s 2 are each reenacted and amended to read as follows:

School districts shall establish the following funds in addition to those provided elsewhere by law:

(1) A general fund for maintenance and operation of the school district to account for all financial operations of the school district except those required to be accounted for in another fund.

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW 28A.150.270, earnings from capital projects fund investments as authorized by RCW 28A.320.310 and 28A.320.320, and state forest revenues transferred pursuant to subsection (3) of this section.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW 28A.335.060, and proceeds from the sale of real property as authorized by RCW 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW 28A.530.010, and for the purposes of:

(a) Major renovation(~~(including the)~~) and replacement of facilities and systems where periodical repairs are no longer economical or extend the useful life of the facility or system beyond its original planned useful life. (~~Major~~) Such renovation and replacement shall include, but shall not be limited to, major repairs, exterior painting of facilities, replacement and refurbishment of roofing, exterior walls, windows, heating and ventilating systems, floor covering in classrooms and public or common areas, and electrical and plumbing systems.

(b) Renovation and rehabilitation of playfields, athletic fields, and other district real property.

(c) The conduct of preliminary energy audits and energy audits of school district buildings. For the purpose of this section:

(i) "Preliminary energy audits" means a determination of the energy consumption characteristics of a building, including the size, type, rate of energy consumption, and major energy using systems of the building.

(ii) "Energy audit" means a survey of a building or complex which identifies the type, size, energy use level, and major energy using systems; which determines appropriate energy conservation maintenance or operating procedures and assesses any need for the acquisition and installation of energy conservation measures, including solar energy and renewable resource measures.

(iii) "Energy capital improvement" means the installation, or modification of the installation, of energy conservation measures in a building which measures are primarily intended to reduce energy consumption or allow the use of an alternative energy source.

(d) Those energy capital improvements which are identified as being cost-effective in the audits authorized by this section.

(e) Purchase or installation of additional major items of equipment and furniture: PROVIDED, That vehicles shall not be purchased with capital projects fund money.

(f)(i) Costs associated with implementing technology systems, facilities, and projects, including acquiring hardware, licensing software, and online applications and training related to the installation of the foregoing. However, the software or applications must be an integral part of the district's technology systems, facilities, or projects.

(ii) Costs associated with the application and modernization of technology systems for operations and instruction including, but not limited to, the ongoing fees for online applications, subscriptions, or software licenses, including upgrades and incidental services, and ongoing training related to the installation and integration of these products and services. However, to the extent the funds are used for the purpose under this subsection (2)(f)(ii), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(g) Major equipment repair, painting of facilities, and other major preventative maintenance purposes. Funds used for this purpose may not supplant routine annual preventive maintenance expenditures made from the district's general fund. However, to the extent the funds are used for the purpose under this subsection (2)(g), the school district shall transfer to the district's general fund the portion of the capital projects fund used for this purpose. The office of the superintendent of public instruction shall develop accounting guidelines for these transfers in accordance with internal revenue service regulations.

(3) A debt service fund to provide for tax proceeds, other revenues, and disbursements as authorized in chapter 39.44 RCW. State forest land revenues that are deposited in a school district's debt service fund pursuant to RCW 79.64.110 and to the extent not necessary for payment of debt service on school district bonds may be transferred by the school district into the district's capital projects fund.

(4) An associated student body fund as authorized by RCW 28A.325.030.

(5) Advance refunding bond funds and refunded bond funds to provide for the proceeds and disbursements as authorized in chapter 39.53 RCW.

Sec. 2. RCW 84.52.053 and 2007 c 129 s 3 are each amended to read as follows:

(1) The limitations imposed by RCW 84.52.050 through 84.52.056, and 84.52.043 shall not prevent the levy of taxes by school districts, when authorized so to do by the voters of such school district in the manner and for the purposes and number of years allowable under Article VII, section 2(a) of the Constitution of this state. Elections for such taxes shall be held in the year in which the levy is made or, in the case of propositions authorizing two-year through four-year levies for maintenance and operation support of a school district, authorizing two-year levies for transportation vehicle funds established in RCW 28A.160.130, or authorizing two-year through six-year levies to support the construction, modernization, or remodeling of school facilities, which includes the purposes of RCW 28A.320.330(2) (f) and (g), in the year in which the first annual levy is made.

(2) Once additional tax levies have been authorized for maintenance and operation support of a school district for a two-year through four-year period as provided under subsection (1)

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of this section, no further additional tax levies for maintenance and operation support of the district for that period may be authorized. For the purpose of applying the limitation of this subsection, a two-year through six-year levy to support the construction, modernization, or remodeling of school facilities shall not be deemed to be a tax levy for maintenance and operation support of a school district.

(3) A special election may be called and the time therefor fixed by the board of school directors, by giving notice thereof by publication in the manner provided by law for giving notices of general elections, at which special election the proposition authorizing such excess levy shall be submitted in such form as to enable the voters favoring the proposition to vote "yes" and those opposed thereto to vote "no."

Senators Fraser and Brandland 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. 1619.

The motion by Senator Fraser 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 "districts;" strike the remainder of the title and insert "amending RCW 84.52.053; and reenacting and amending RCW 28A.320.330."

MOTION

On motion of Senator Fraser, the rules were suspended, Engrossed Substitute House Bill No. 1619 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 declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1619 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1619 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen and Shin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1619 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. 1361, by Representatives Goodman, Rodne, Williams, Dickerson, Walsh, Kagi, Roberts, Pettigrew,

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O'Brien, Armstrong, Appleton, Ericks, Warnick, Haigh, Moeller, Rolfes, Carlyle, Wallace, Seaquist and Morrell

Regarding county supervised community options.

The measure was read the second time.

MOTION

On motion of Senator Regala, the rules were suspended, House Bill No. 1361 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Regala and Stevens 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. 1361.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1361 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Stevens, Swecker, Tom and Zarelli

Excused: Senators Haugen and Shin

HOUSE BILL NO. 1361, 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 Schoesler, Senator Brandland was excused.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516, by House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Blake and Kretz)

Regarding the recovery of gear used in the coastal Dungeness crab fishery.

The measure was read the second time.

MOTION

Senator Jacobsen moved that the following committee striking amendment by the Committee on Natural Resources, Ocean & Recreation be adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 77.70 RCW to read as follows:

(1)(a) As part of a coastal commercial Dungeness crab pot removal program, the department shall issue a crab pot removal permit that allows the participants in the Dungeness crab-coastal fishery created in RCW 77.70.280 to remove crab pots belonging to state commercial licensed crab fisheries from

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coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season, regardless of whether the crab pot was originally set by the participant or not. Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

(b) The director may adopt rules to provide for a permit system that allows for the lawful and orderly removal of lost or abandoned crab pots. In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may consider expansion of the coastal commercial Dungeness crab pot removal program to times within the primary season as defined by the terms of a valid permit.

(c) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(2) An individual participating in permitted crab pot removal activities in coastal marine waters who has a valid crab pot removal permit, and who adheres to the provisions of the permit as they relate to crab pot removal, is exempt from complying with the lost and found property provisions in chapter 63.21 RCW. The individual who removes the crab pot under a valid crab pot removal permit takes the property free and clear of all claims of the owner or previous holder and free and clear of all individuals claiming ownership under the previous owner.

(3)(a) A person is guilty of unlawful use of a crab pot removal permit if the person:

(i) Violates any terms or conditions of the permit issued under this section; or

(ii) Violates any rule of the department applicable to the requirement for, issuance of, or use of the permit.

(b) Unlawful use of a crab pot removal permit is a misdemeanor.

Sec. 2. RCW 63.21.080 and 1994 c 51 s 6 are each amended to read as follows:

This chapter shall not apply to:

(1) Motor vehicles under chapter 46.52 RCW;

(2) Unclaimed property in the hands of a bailee under chapter 63.24 RCW;

(3) Uniform disposition of unclaimed property under chapter 63.29 RCW; ~~((and))~~

(4) Secured vessels under chapter ~~((88-27))~~ 79A.65 RCW; and

(5) Crab pots in coastal marine waters under section 1 of this act."

MOTION

Senator Hargrove moved that the following amendment by Senator Hargrove and others to the committee striking amendment be adopted.

On page 1, beginning on line 12 of the amendment, after "not." strike all material through "season." on line 28 and insert the following:

"(b) Beginning fifteen days after the close of the primary commercial Dungeness crab-coastal harvest season, any individual with a current commercial Dungeness crab-coastal license and a valid crab pot removal permit issued by the

department may remove a crab pot or crab pots used to harvest Dungeness crabs remaining in coastal marine waters after the close of the primary commercial Dungeness crab-coastal harvest season.

(c) In cooperation with individuals with a current commercial Dungeness crab-coastal license, the department may expand the coastal commercial Dungeness crab pot removal program to those areas closed to commercial Dungeness crab harvest prior to the end of the primary season.

(d) Nothing in this section prohibits the department from exempting certain crab pots from the coastal commercial Dungeness crab pot removal program or from restricting crab pot removal activities to specific geographic areas.

(e) The department may adopt rules to implement this subsection (1)."

Senator Hargrove 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 Hargrove and others on page 1, line 12 to the committee striking amendment to Engrossed Substitute House Bill No. 1516.

The motion by Senator Hargrove 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 Natural Resources, Ocean & Recreation as amended to Engrossed Substitute House Bill No. 1516.

The motion by Senator Jacobsen 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 "fisheries;" strike the remainder of the title and insert "amending RCW 63.21.080; adding a new section to chapter 77.70 RCW; and prescribing penalties."

MOTION

On motion of Senator Jacobsen, the rules were suspended, Engrossed Substitute House Bill No. 1516 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 Jacobsen and Morton 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. 1516 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1516 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 Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice,

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Pridemore, Ranker, Regala, Roach, Rockefeller, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1516 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, Rule 15 was suspended for the remainder of the day for the purpose of allowing continued floor action.

EDITOR'S NOTE: Senate Rule 15 establishes the floor schedule and calls for a lunch and dinner break of 90 minutes each per day during regular daily sessions.

MOTION

At 12:00 p.m., on motion of Senator Eide, the Senate was declared to be at recess until 1:00 p.m.

AFTERNOON SESSION

The Senate was called to order at 1:00 p.m. by the President Pro Tempore.

MOTION

At 1:05 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 1:55 p.m. by President Owen.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Hunter, Anderson, Maxwell, White, Quall, Lijas, Dammeier, Rodne, Wallace, Pedersen, Kelley, Goodman, Springer, Hope, Nelson, Miloscia, Carlyle, Hunt, Morris, Morrell, Probst, Pettigrew, Eddy, Simpson, Kenney, Moeller, Smith, Condotta, McCoy, Kagi, Chase, Rolfes, Clibborn, Ormsby, Haler and Cox)

Concerning the state's education system.

The measure was read the second time.

MOTION

Senator McAuliffe moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** (1) Public education in Washington state has evolved since the enactment of the Washington basic education act of 1977. Decisions by the courts have played a part in this evolution, as have studies and research about education practices and education funding. The legislature finds ample evidence of a need for continuing to refine the program of basic education that is funded by the state and delivered by school districts.

(2) The legislature reaffirms the work of Washington Learns and other educational task forces that have been convened over the past four years and their recommendations to make bold

reforms to the entire educational system in order to educate all students to a higher level; to focus on the individualized instructional needs of students; to strive towards closing the achievement gap and reducing dropout rates; and to prepare students for a constantly evolving workforce and increasingly demanding global economy. In enacting this legislation, the legislature intends to continue to review, evaluate, and revise the definition and funding of basic education in order to continue to fulfill the state obligation under Article IX of the state Constitution. The legislature also intends to continue to strengthen and modify the structure of the entire K-12 educational system, including nonbasic education programmatic elements, in order to build the capacity to anticipate and support potential future enhancements to basic education as the educational needs of our citizens continue to evolve.

(3) The legislature recognizes that the first step in revising the definition and funding of basic education is to create a transparent funding system for both allocations and expenditures so that not only policymakers and educators understand how the state supports basic education but also taxpayers understand this. An adequate data system that enables the legislature to make rational, data-driven decisions on what educational programs impact student learning in order to more effectively and efficiently deliver the resources necessary to provide an ample program of basic education is also a necessity. A new prototypical funding system will allow the legislature to better understand how current resources are being used. A more complete and accurate educational data system will allow the legislature to understand whether current basic education programs are supporting student learning. Only with both of these systems in place can the legislature make informed decisions on how to best implement a dynamic and evolving system of basic education.

(4) For practical and educational reasons, major changes of the program of basic education and the funding formulas to support it cannot occur instantaneously. The legislature intends to build upon the previous efforts of the legislature and the basic education task force in order to develop a realistic implementation strategy for a new instructional program after technical experts develop the details of the prototypical schools funding formulas and data and reporting system that will support a new instructional program. The legislature also intends to establish a formal structure for ongoing monitoring of the capacity of the system to implement enhancements to basic education that is evidence-based and has been proven to have positive impacts on student learning. With this information the legislature can begin a schedule for implementation of a redefined program of basic education and the resources necessary to support it. It is the legislature's intent that when the system has the capacity to fully implement future reforms and enhancements they will be included in a definition and funding of basic education.

(5) It is the further intent of the legislature to also address additional issues that are of importance to the legislature but are not part of basic education.

NEW SECTION. **Sec. 2.** It is the intent of the legislature that the policies and allocation formulas adopted under this act will constitute the legislature's definition of basic education under Article IX of the state Constitution once fully implemented. The legislature intends, however, to continue to review and revise the formulas and schedules and may make additional revisions, including revisions for technical purposes and consistency in the event of mathematical or other technical errors.

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PART I**PROGRAM AND FUNDING OF BASIC EDUCATION**

Sec. 101. RCW 28A.150.200 and 1990 c 33 s 104 are each amended to read as follows:

~~((This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW 28A.150.210, (2) those program requirements enumerated in RCW 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW 28A.150.250 and 28A.150.260.~~

~~The requirements of the Basic Education Act are)) (1) The program of basic education established under this chapter is deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and ((are)) is adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools."~~

~~(2) The legislature defines the program of basic education under this chapter as that which is necessary to provide the opportunity to develop the knowledge and skills necessary to meet the state-established high school graduation requirements that are intended to allow students to have the opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship. Basic education by necessity is an evolving program of instruction intended to reflect the changing educational opportunities that are needed to equip students for their role as productive citizens and includes the following:~~

~~(a) The instructional program of basic education the minimum components of which are described in RCW 28A.150.220;~~

~~(b) The program of education provided by chapter 28A.190 RCW for students in residential schools as defined by RCW 28A.190.020 and for juveniles in detention facilities as identified by RCW 28A.190.010;~~

~~(c) The program of education provided by chapter 28A.193 RCW for individuals under the age of eighteen who are incarcerated in adult correctional facilities; and~~

~~(d) Transportation and transportation services to and from school for eligible students as provided under RCW 28A.160.150 through 28A.160.180.~~

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

(1) "Basic education goal" means the student learning goals and the student knowledge and skills described under RCW 28A.150.210.

(2) "Certificated administrative staff" means 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).

(3) "Certificated employee" as used in this chapter and RCW 28A.195.010, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, means those persons who hold certificates as authorized by rule of the Washington professional educator standards board.

(4) "Certificated instructional staff" means those persons employed by a school district who are nonsupervisory certificated employees within the meaning of RCW 41.59.020(8).

(5) "Class size" means an instructional grouping of students where, on average, the ratio of students to teacher is the number specified.

(6) "Classified employee" means a person who does not hold a professional education certificate or is employed in a position that does not require such a certificate.

(7) "Classroom teacher" means a person who holds a professional education certificate and is employed in a position for which such certificate is required whose primary duty is the daily educational instruction of students. In exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision, but the hiring of such classified employees shall not occur during a labor dispute, and such classified employees shall not be hired to replace certificated employees during a labor dispute.

(8) "Instructional program of basic education" means the minimum program required to be provided by school districts and includes instructional hour requirements and other components under RCW 28A.150.220.

(9) "Program of basic education" means the overall program under RCW 28A.150.200 and deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution.

(10) "School day" means each day of the school year on which pupils enrolled in the common schools of a school district are engaged in academic and career and technical instruction planned by and under the direction of the school.

(11) "School year" includes the minimum number of school days required under RCW 28A.150.220 and begins on the first day of September and ends with the last day of August, except that any school district may elect to commence the annual school term in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district.

(12) "Teacher planning period" means a period of a school day as determined by the administration and board of the directors of the district that may be used by teachers for instruction-related activities including but not limited to preparing instructional materials; reviewing student performance; recording student data; consulting with other teachers, instructional assistants, mentors, instructional coaches, administrators, and parents; or participating in professional development.

Sec. 103. RCW 28A.150.210 and 2007 c 400 s 1 are each amended to read as follows:

~~((The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be)) A basic education is an evolving program of instruction that is intended to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and gives all students~~

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the opportunity to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

Sec. 104. RCW 28A.150.220 and 1993 c 371 s 2 are each amended to read as follows:

(1) Satisfaction of the basic education (~~(program requirements)~~) goal identified in RCW 28A.150.210 (~~(shall be considered)~~) is intended to be implemented by the following minimum instructional program:

(a) Each school district shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. The program shall include instruction in the essential academic learning requirements under RCW (~~28A.630.885~~) 28A.655.070 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students enrolled in grades one through twelve, at least a district-wide annual average total instructional hour offering of one thousand hours. The annual average total instructional hour offering shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature and only as the capacity of the educational system is adequate to support such an increase in instructional hours. The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative learning experiences. The state board of education shall establish rules to determine annual average instructional hours for districts including fewer than twelve grades. The program shall include the essential academic learning requirements under RCW (~~28A.630.885~~) 28A.655.070 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such group;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) The opportunity to complete the high school coursework necessary to meet state-established high school graduation requirements.

(2) Nothing contained in subsection (1) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(3) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten(~~(- PROVIDED, That)~~). However, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

(4) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

(5) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

Sec. 105. RCW 28A.150.250 and 1990 c 33 s 107 are each amended to read as follows:

(1) From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 to each school district of the state operating a basic education instructional program approved by the state board of education an amount based on the formulas provided in RCW 28A.150.260, 28A.150.390, and section 108 of this act which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full-time equivalent student enrolled(~~(; based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220))~~).

(2) The instructional program of basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW (~~28A.150.250 and~~) 28A.150.260, 28A.150.390, and section 108 of this act to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula (~~(and ratios)~~) provided in RCW 28A.150.260 and those amounts of dollars

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appropriated by the legislature to fund the salary requirements of RCW ((28A.150.100 and)) 28A.150.410.

~~((Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district. PROVIDED, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students. PROVIDED FURTHER, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students.))~~

~~(3) If a school district's basic education program fails to meet the basic education requirements enumerated in RCW ((28A.150.250;)) 28A.150.260(3) and 28A.150.220, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured((: PROVIDED, That)). However, the state board of education may waive this requirement in the event of substantial lack of classroom space.~~

Sec. 106. RCW 28A.150.260 and 2006 c 263 s 322 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)) The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:~~

~~(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula ((based on a ratio of students to staff)) for the distribution of a basic education instructional allocation for each ((annual average full time equivalent student enrolled in a)) common school district. ((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 RCW 28A.525.025, 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)) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.165, 28A.180, or 28A.155 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this~~

section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

(i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;

(ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and

(iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(c) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period per school day, and based on an average class size as specified in the omnibus appropriations act. The omnibus appropriations act shall at a minimum specify:

(i) Basic average class size;

(ii) Basic average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals; and

(iii) Average class size in grades kindergarten through three.

(d) The minimum allocation for each level of prototypical school shall include allocations for staff in addition to classroom teachers.

(4) The minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs: Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development; other building-level costs including maintenance, custodial, and security; and central office administration.

(5) The allocations provided under subsections (3) and (4) of this section shall be enhanced as follows to provide additional

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allocations for classroom teachers and maintenance, supplies, and operating costs:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the percent of students in each school who are eligible for free and reduced-price meals. The minimum allocation for the learning assistance program shall provide an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide for supplemental instruction based on percent of the school day a student is assumed to receive supplemental instruction and a per student allocation for maintenance, supplies, and operating costs.

(6) The allocations under subsections (3)(b), (c)(i), and (d), (4), and (7) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

(7) The distribution formula shall include allocations to school districts to support staffing of central office administration. The minimum allocation shall be calculated as a percentage, identified in the omnibus appropriations act, of the total allocations for staff under subsection (3) of this section for all schools in the district.

(8) For the purposes of allocations for prototypical high schools and middle schools under subsections (3) and (5) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

(9)(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)) (b) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect((~~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).

(c) The enrollment of any district shall be the annual average number of full-time equivalent students and part-time students as provided in RCW 28A.150.350, enrolled on the first school day of each month ((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)), including students who are in attendance pursuant to RCW 28A.335.160 and 28A.225.250 who do not reside within the servicing school district. The definition of full-time equivalent student shall be determined by rules of the superintendent of public instruction((~~PROVIDED, That the definition~~)) and shall be included as part of the superintendent's biennial budget request((~~PROVIDED, FURTHER, That~~)). The definition shall be based on the minimum instructional hour offerings required under RCW 28A.150.220. Any revision of the present definition shall not take effect until approved by the house ((appropriations)) ways and means committee and the senate ways and means committee((~~PROVIDED, FURTHER, That~~)).

(d) The office of financial management shall make a monthly review of the superintendent's reported full-time equivalent students in the common schools in conjunction with RCW 43.62.050.

((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. 107. RCW 28A.150.390 and 1995 c 77 s 6 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW ((28A.150.250;)) 28A.150.260(;) (3) through (5) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256((~~and other state and local funds, excluding special excess levies~~)).

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded

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enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (3) (b), (c)(i), and (d), (4), and (7), to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

NEW SECTION. Sec. 108. (1) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state and federal revenues related to services for special education students.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services. Safety net awards under this subsection (1)(c) shall be adjusted to reflect amounts awarded under (b) of this subsection.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards shall be adjusted based on the percent of potential medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(f) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(2) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(3) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(4) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

Sec. 109. RCW 28A.150.380 and 2001 c 3 s 10 are each amended to read as follows:

(1) The state legislature shall, at each regular session in an odd-numbered year, appropriate ~~((from the state general fund))~~ for the current use of the common schools such amounts as needed for state support to ~~((the common schools))~~ school districts during the ensuing biennium ((as provided in this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010)) for the program of basic education under RCW 28A.150.200.

(2) In addition to those state funds provided to school districts for basic education, the legislature may appropriate funds to be distributed to school districts for other factors and for other special programs to enhance or enrich the program of basic education.

(3) The state legislature shall also, at each regular session in an odd-numbered year, appropriate from the student achievement fund and education construction fund solely for the purposes of and in accordance with the provisions of the student achievement act during the ensuing biennium.

Sec. 110. RCW 28A.230.090 and 2006 c 114 s 3 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except those equivalencies established by local high schools or school districts under RCW 28A.230.097.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

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(b) The certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements. ~~((The board shall reports [report] its findings and recommendations for additional flexibility in graduation requirements, if necessary, to the legislature by December 1, 2007-))~~

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review and to the quality education council established under section 113 of this act. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and funded by the legislature through the omnibus appropriations act or other enacted legislation. In making proposed changes to the high school graduation requirements, the state board and the legislature shall take into account the capacity of the educational system to implement those changes and if necessary shall establish an implementation schedule that reflects the capacity needs.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is

similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. Sec. 111. (1) The legislature intends to continue to redefine the instructional program of education under RCW 28A.150.220 that fulfills the obligations and requirements of Article IX of the state Constitution. The funding formulas under RCW 28A.150.260 to support the instructional program shall be implemented beginning in the 2011-12 school year to the extent the technical details of the formula have been established and according to an implementation schedule to be adopted by the legislature. The object of the schedule is to assure that any increases in funding allocations are timely, predictable, and occur concurrently with any increases in program or instructional requirements. It is the intent of the legislature that no increased programmatic or instructional expectations be imposed upon schools or school districts without an accompanying increase in resources as necessary to support those increased expectations.

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to recommend the details of the funding formulas and a concurrent implementation schedule.

(3) In addition to any other details the technical working group deems necessary, the technical working group shall:

(a) Based on the intent established in RCW 28A.150.260, determine how to adjust the actual allocations to school districts from the school prototypes and what additional data might be necessary to allow adjustments based on the actual number of full-time equivalent students in each grade level at each school in the district;

(b) Recommend whether there should be additional class size categories, in addition to those in RCW 28A.150.260, that should be specified in the omnibus appropriations act for prototypical schools;

(c) Recommend what staff categories, in addition to classroom teachers, should have specified allocations included in the omnibus appropriations act for prototypical schools. In developing the list, the working group shall at a minimum consider the following categories:

(i) Principals, including assistant principals and other certificated building-level administrators;

(ii) Teacher or classified employee librarians, a function that includes information literacy, technology, and media to support school library media programs;

(iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;

(iv) Guidance counselors, a function that includes parent outreach and graduation advisor;

(v) Professional development coaches;

(vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;

(vii) Office support, technology support, and noninstructional aides;

(viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees;

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- (ix) Student and staff safety; and
- (x) Teacher mentor enhancement; and

(d) Recommend whether additional categories of enhancements to the annual average full-time equivalent student allocation should be included in the omnibus appropriations act for prototypical schools, any recommended criteria for those enhancements, and whether restrictions on when those enhancements apply should be included. The working group shall at a minimum give consideration to the following potential enhancements:

- (i) Based on student enrollment in exploratory career and technical education courses;
- (ii) Based on student enrollment in laboratory science courses;
- (iii) Based on student enrollment in preparatory career and technical education courses;
- (iv) Based on enrollment in preparatory career and technical education courses offered through a skill center; and
- (v) Based on the enrollment of highly capable students.

(4) The working group shall include representatives of the legislative evaluation and accountability program committee, school district and educational service district financial managers, the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(5) The working group shall be monitored and overseen by the legislature. The working group shall submit its recommendations to the legislature by December 1, 2009.

NEW SECTION. Sec. 112. A new section is added to chapter 28A.300 RCW to read as follows:

(1) As part of the estimates and information submitted to the governor by the superintendent of public instruction under RCW 28A.300.170, the superintendent of public instruction shall biennially make determinations on the educational system's capacity to accommodate increased resources in relation to the recommended elements in the prototypical funding allocation model. In areas where there are specific and significant capacity limitations to providing enhancements to a recommended element, the superintendent of public instruction shall identify those limitations and make recommendations on how to address the issue.

(2) The legislature shall:

(a) Review the recommendations of the superintendent of public instruction submitted under subsection (1) of this section; and

(b) Use the information as it continues to review, evaluate, and revise the definition and funding of basic education in a manner that serves the educational needs of the citizen's of Washington; continues to fulfill the state's obligation under Article IX of the state Constitution and ensures that no enhancements are imposed on the educational system that cannot be accommodated by the existing system capacity.

(3) "System capacity" for purposes of this section includes, but is not limited to, the ability of schools and districts to provide the capital facilities necessary to support a particular instructional program, the staffing levels necessary to support an instructional program both in terms of actual numbers of staff as well as the experience level and types of staff available to fill positions, the higher education systems capacity to prepare the

next generation of educators, and the availability of data and a data system capable of helping the state allocate its resources in a manner consistent with evidence-based practices that are shown to improve student learning.

(4) The office of the superintendent of public instruction shall report to the legislature on a biennial basis beginning December 1, 2010.

NEW SECTION. Sec. 113. (1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under section 112 of this act and the availability of data and progress of implementing the data systems required under section 202 of this act. Any recommendations for modifications to the program of basic education shall be based on scientific evidence of which programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Two members of the house of representatives, with one member representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Two members of the senate, with one member representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter . . . , Laws of 2009 (this act).

(b) The initial report shall, at a minimum, give consideration to:

(i) Establishing a statewide beginning teacher mentoring and support system;

(ii) Strategies for enriching the instruction for all students, including highly capable;

(iii) Strategies for eliminating the achievement gap;

(iv) Potential dropout reduction and student reengagement strategies;

(v) Recommendations for a program of early learning for at-risk children and whether such program should be considered part of the program of basic education; and

(vi) Any system capacity limitations as appropriate.

(6) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

(7) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

PART II

EDUCATION DATA IMPROVEMENT SYSTEM

Sec. 201. RCW 43.41.400 and 2007 c 401 s 3 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative ~~((education [evaluation]))~~ evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

~~((b))~~ (c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

~~((c))~~ (d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that

are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

~~((d))~~ (g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs; ~~(and~~

~~(e))~~ (h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; and

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and sections 202 and 203 of this act are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

NEW SECTION. Sec. 202. A new section is added to chapter 43.41 RCW to read as follows:

(1) It is the legislature's intent to establish a comprehensive K-12 education data improvement system for financial, student, and educator data. The objective of the system is to monitor student progress, have information on the quality of the educator workforce, monitor and analyze the costs of programs, provide for financial integrity and accountability, and have the capability to link across these various data components by student, by class, by teacher, by school, by district, and statewide. Education data systems must be flexible and able to adapt to evolving needs for information, but there must be an objective and orderly data governance process for determining when

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changes are needed and how to implement them. It is the further intent of the legislature to provide independent review and evaluation of a comprehensive K-12 education data improvement system by assigning the review and monitoring responsibilities to the education data center and the legislative evaluation and accountability program committee.

(2) It is the intent that the data system specifically service reporting requirements for teachers, parents, superintendents, school boards, the legislature, the office of the superintendent of public instruction, and the public.

(3) It is the legislature's intent that the K-12 education data improvement system used by school districts and the state include but not be limited to the following information and functionality:

(a) Comprehensive educator information, including grade level and courses taught, building or location, program, job assignment, years of experience, the institution of higher education from which the educator obtained his or her degree, compensation, class size, mobility of class population, socioeconomic data of class, number of languages and which languages are spoken by students, general resources available for curriculum and other classroom needs, and number and type of instructional support staff in the building;

(b) The capacity to link educator assignment information with educator certification information such as certification number, type of certification, route to certification, certification program, and certification assessment or evaluation scores;

(c) Common coding of secondary courses and major areas of study at the elementary level or standard coding of course content;

(d) Robust student information, including but not limited to student characteristics, course and program enrollment, performance on statewide and district summative and formative assessments to the extent district assessments are used, and performance on college readiness tests;

(e) A subset of student information elements to serve as a dropout early warning system;

(f) The capacity to link educator information with student information;

(g) A common, standardized structure for reporting the costs of programs at the school and district level with a focus on the cost of services delivered to students;

(h) Separate accounting of state, federal, and local revenues and costs;

(i) Information linking state funding formulas to school district budgeting and accounting, including procedures:

(i) To support the accuracy and auditing of financial data; and

(ii) Using the prototypical school model for school district financial accounting reporting;

(j) The capacity to link program cost information with student performance information to gauge the cost-effectiveness of programs;

(k) Information that is centrally accessible and updated regularly; and

(l) An anonymous, nonidentifiable replicated copy of data that is updated at least quarterly, and made available to the public by the state.

(4) It is the legislature's goal that all school districts have the capability to collect state-identified common data and export it in a standard format to support a statewide K-12 education data improvement system under this section.

(5) It is the legislature's intent that the K-12 education data improvement system be developed to provide the capability to make reports as required under section 203 of this act available.

(6) It is the legislature's intent that school districts collect and report new data elements to satisfy the requirements of RCW 43.41.400, this section, and section 203 of this act, only to the extent funds are available for this purpose.

NEW SECTION. Sec. 203. A new section is added to chapter 28A.300 RCW to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education data center, the office of the superintendent of public instruction, the legislative evaluation and accountability program committee, the professional educator standards board, the state board of education, and school district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under section 202 of this act;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

(i) Defining and maintaining standards for privacy and confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be

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specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in RCW 43.41.400, this section, or section 202 of this act should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education data center and the legislative evaluation and accountability program committee.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the educational data center and the legislative evaluation and accountability program committee.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:

(a) The percentage of data compliance and data accuracy by school district;

(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:

(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;

(ii) An approximate, prorated fraction of classroom or building costs used by the student;

(iii) An approximate, prorated fraction of transportation costs used by the student; and

(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;

(c) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;

(f) Number of K-12 students per classroom teacher on a per teacher basis;

(g) Number of K-12 classroom teachers per student on a per student basis;

(h) Percentage of a classroom teacher per student on a per student basis; and

(i) The cost of K-12 education per student by school district sorted by federal, state, and local dollars.

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed

phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section, RCW 43.41.400, and section 202 of this act shall be made available in a manner consistent with the technical requirements of the legislative evaluation and accountability program committee and the education data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

NEW SECTION. Sec. 204. A new section is added to chapter 43.41 RCW to read as follows:

The education data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement sections 201 through 203 of this act.

PART III OTHER EDUCATIONAL PROVISIONS

NEW SECTION. Sec. 301. A new section is added to chapter 28A.500 RCW to read as follows:

(1) The legislature finds that while the state has the responsibility to provide for a general and uniform system of public schools, there is also a need for some diversity in the public school system. A successful system of public education must permit some variation among school districts outside the basic education provided for by the state to respond to and reflect the unique desires of local communities. The opportunity for local communities to invest in enriched education programs promotes support for local public schools. Further, the ability of local school districts to experiment with enriched programs can inform the legislature's long-term evolution of the definition of basic education. Therefore, local levy authority remains an important component of the overall finance system in support of the public schools even though it is outside the state's obligation for basic education.

(2) However, the value of permitting local levies must be balanced with the value of equity and fairness to students and to taxpayers, neither of whom should be unduly disadvantaged due to differences in the tax bases used to support local levies. Equity and fairness require both an equitable basis for supplemental funding outside basic education and a mechanism for property tax-poor school districts to fairly access supplemental funding. As such, local effort assistance, while also outside the state's obligation for basic education, is another important component of school finance.

NEW SECTION. Sec. 302. (1) Beginning July 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under this act and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

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(3) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in section 113 of this act. The working group shall report to the legislature December 1, 2011.

Sec. 303. RCW 28A.195.010 and 2004 c 19 s 106 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. The state board of education shall not require private school students to meet the student learning goals, obtain a certificate of academic achievement, or a certificate of individual achievement to graduate from high school, to master the essential academic learning requirements, or to be assessed pursuant to RCW 28A.655.061. However, private schools may choose, on a voluntary basis, to have their students master these essential academic learning requirements, take the assessments, and obtain a certificate of academic achievement or a certificate of individual achievement. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum ~~((program))~~ instructional hour offerings ~~((as prescribed in RCW 28A.150.220)), with a school-wide annual average total instructional hour offering of one thousand hours for students enrolled in grades one through twelve, and at least four hundred fifty hours for students enrolled in kindergarten.~~

(2) The school day shall be the same as ~~((that required in RCW 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools))~~ defined in section 102 of this act.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) of this section provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

Sec. 304. RCW 28A.160.150 and 1996 c 279 s 1 are each amended to read as follows:

Funds allocated for transportation costs, except for funds provided for transportation and transportation services to and from school shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an

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eligible student to and from school as defined in RCW 28A.160.160(3). In addition, funding shall be provided for transportation services for students living within one radius mile from school as determined under RCW 28A.160.180(2).

Sec. 305. RCW 28A.150.315 and 2007 c 400 s 2 are each amended to read as follows:

(1) Beginning with the 2007-08 school year, funding for voluntary all-day kindergarten programs shall be phased-in beginning with schools with the highest poverty levels, defined as those schools with the highest percentages of students qualifying for free and reduced-price lunch support in the prior school year. Once a school receives funding for the all-day kindergarten program, that school shall remain eligible for funding in subsequent school years regardless of changes in the school's percentage of students eligible for free and reduced-price lunches as long as other program requirements are fulfilled. Additionally, schools receiving all-day kindergarten program support shall agree to the following conditions:

(a) Provide at least a one thousand-hour instructional program;

(b) Provide a curriculum that offers a rich, varied set of experiences that assist students in:

(i) Developing initial skills in the academic areas of reading, mathematics, and writing;

(ii) Developing a variety of communication skills;

(iii) Providing experiences in science, social studies, arts, health and physical education, and a world language other than English;

(iv) Acquiring large and small motor skills;

(v) Acquiring social and emotional skills including successful participation in learning activities as an individual and as part of a group; and

(vi) Learning through hands-on experiences;

(c) Establish learning environments that are developmentally appropriate and promote creativity;

(d) Demonstrate strong connections and communication with early learning community providers; and

(e) Participate in kindergarten program readiness activities with early learning providers and parents.

(2) Subject to funds appropriated for this purpose, the superintendent of public instruction shall designate one or more school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

(3) Any funds allocated to support all-day kindergarten programs under this section shall not be considered as basic education funding. Once all-day kindergarten is fully implemented statewide, the quality education council created in section 113 of this act shall review the performance data of the schools and students and make recommendations to the legislature as to whether all-day kindergarten should be included in the definition of basic education. As the programs are phased-in, school districts that are not receiving state funding for all-day kindergarten may charge a copay from families to help support a district-provided all-day kindergarten. Copay waivers must be available to families who are low income.

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School districts must adopt a policy that clearly defines "low income," the use of a copay, and a copay waiver.

NEW SECTION. Sec. 306. A new section is added to chapter 43.79 RCW to read as follows:

(1) The education stabilization account is created in the state treasury. Moneys in the account may be spent only after appropriation and only for K-12 educational purposes. All receipts from subsections (2) and (3) of this section shall be deposited into the account.

(2) By September 30, 2011, and by September 30th of each odd-numbered year thereafter, all general state revenues that exceed the state revenues from the previous fiscal biennium, up to a maximum of five percent over the previous fiscal biennium, shall be transferred to the education stabilization account such that the amount transferred to the education stabilization account is the amount needed to maintain the previous fiscal biennium's percentage of general state revenue spent on all of K-12 education.

(3) If the amount of revenue growth is greater than five percent over the previous fiscal biennium, by September 30, 2011, and by September 30th of each odd-numbered year thereafter, an amount equal to fifty percent of the increase over five percent shall be transferred to the education stabilization account.

(4) For the purposes of this section, "general state revenues" shall be as defined by Article VIII, section 1 of the state Constitution.

PART IV CERTIFICATION AND PROFESSIONAL DEVELOPMENT

NEW SECTION. Sec. 401. The legislature recognizes that the key to providing all students the opportunity to achieve the basic education goal is effective teaching and leadership. Teachers, principals, and administrators must be provided with access to the opportunities they need to gain the knowledge and skills that will enable them to be increasingly successful in their classroom and schools. A system that clearly defines, supports, measures, and recognizes effective teaching and leadership is one of the most important investments to be made.

NEW SECTION. Sec. 402. A new section is added to chapter 28A.410 RCW to read as follows:

(1)(a) By January 1, 2010, the professional educator standards board shall adopt a set of articulated teacher knowledge, skill, and performance standards for effective teaching that are evidence-based, measurable, meaningful, and documented in high quality research as being associated with improved student learning. The standards shall be calibrated for each level of certification and along the entire career continuum. In developing the standards, the board shall, to the extent possible, incorporate standards for cultural competency along the entire continuum. For the purposes of this subsection, "cultural competency" includes knowledge of student cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community resources and community and parent outreach; and skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

(b) By January 1, 2010, the professional educator standards board shall adopt a definition of master teacher, with a comparable level of increased competency between professional certification level and master level as between professional certification level and national board certification. Within the definition established by the professional educator standards

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board, teachers certified through the national board for professional teaching standards shall be considered master teachers.

(2) By January 1, 2010, the professional educator standards board shall submit to the governor and the education and fiscal committees of the legislature:

(a) An update on the status of implementation of the professional certificate external and uniform assessment authorized in RCW 28A.410.210;

(b) A proposal for a uniform, statewide, valid, and reliable classroom-based means of evaluating teacher effectiveness as a culminating measure at the preservice level that is to be used during the student-teaching field experience. This assessment shall include multiple measures of teacher performance in classrooms, evidence of positive impact on student learning, and shall include review of artifacts, such as use of a variety of assessment and instructional strategies, and student work. The proposal shall establish a timeline for when the assessment will be required for successful completion of a Washington state-approved teacher preparation program. The timeline shall take into account the capacity of the K-12 education and higher education systems to accommodate the new assessment. The proposal and timeline shall also address how the assessment will be included in state-reported data on preparation program quality; and

(c) A recommendation on the length of time that a residency certificate issued to a teacher is valid and within what time period a teacher must meet the minimum level of performance for and receive a professional certificate in order to continue being certified as a teacher. In developing this recommendation, the professional educator standards board shall consult with interested stakeholders including the Washington education association, the Washington association of school administrators, association of Washington school principals, and the Washington state school directors' association and shall include with its recommendation a description of each stakeholder's comments on the recommendation.

(3) The update and proposal in subsection (2)(a) and (b) of this section shall include, at a minimum, descriptions of:

(a) Estimated costs and statutory authority needed for further development and implementation of these assessments;

(b) A common and standardized rubric for determining whether a teacher meets the minimum level of performance of the assessments; and

(c) Administration and management of the assessments.

(4) To the extent that funds are appropriated for this purpose and in accordance with the timeline established in subsection (2) of this section, recognizing the capacity limitations of the education systems, the professional educator standards board shall develop the system and process as established in subsections (1), (2), and (3) of this section throughout the remainder of the 2010-11 and 2011-12 school years.

(5) Beginning no earlier than September 1, 2011, award of a professional certificate shall be based on a minimum of two years of successful teaching experience as defined by the board and on the results of the evaluation authorized under RCW 28A.410.210(14) and under this section, and may not require candidates to enroll in a professional certification program.

(6) Beginning July 1, 2011, educator preparation programs approved to offer the residency teaching certificate shall be required to demonstrate how the program produces effective teachers as evidenced by the measures established under this section and other criteria established by the professional educator standards board.

Sec. 403. RCW 28A.415.360 and 2007 c 402 s 9 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, targeted professional development programs, to be known as learning improvement days, are authorized to further the development of outstanding mathematics, science, and reading teaching and learning opportunities in the state of Washington. The intent of this section is to provide guidance for the learning improvement days in the omnibus appropriations act. The learning improvement days authorized in this section shall not be considered part of the definition of basic education.

(2) ~~((The expected outcomes of these programs are))~~ A school district is eligible to receive funding for learning improvement days that are limited to specific activities related to student learning that contribute to the following outcomes:

(a) Provision of meaningful, targeted professional development for all teachers in mathematics, science, or reading;

(b) Increased knowledge and instructional skill for mathematics, science, or reading teachers;

(c) Increased use of curriculum materials with supporting diagnostic and supplemental materials that align with state standards;

(d) Skillful guidance for students participating in alternative assessment activities;

(e) Increased rigor of course offerings especially in mathematics, science, and reading;

(f) Increased student opportunities for focused, applied mathematics and science classes;

(g) Increased student success on state achievement measures; and

(h) Increased student appreciation of the value and uses of mathematics, science, and reading knowledge and exploration of related careers.

(3) School districts receiving resources under this section shall submit reports to the superintendent of public instruction ~~((regarding the use of the funds;))~~ documenting how the use of the funds ~~((is associated with))~~ contributes to measurable improvement in the ~~((expected))~~ outcomes described under subsection (2) of this section; and how other professional development resources and programs authorized in statute or in the omnibus appropriations act contribute to the expected outcomes. The superintendent of public instruction and the office of financial management shall collaborate on required report content and format.

PART V

SHARED ACCOUNTABILITY FOR SCHOOL AND DISTRICT IMPROVEMENT

NEW SECTION. **Sec. 501.** (1)(a) The legislature intends to develop a system in which the state and school districts share accountability for achieving state educational standards and supporting continuous school improvement. The legislature recognizes that comprehensive education finance reform and the increased investment of public resources necessary to implement that reform must be accompanied by a new mechanism for clearly defining the relationships and expectations for the state, school districts, and schools. It is the legislature's intent that this be accomplished through the development of a proactive, collaborative accountability system that focuses on a school improvement system that engages and serves the local school board, parents, students, staff in the schools and districts, and the community. The improvement system shall be based on progressive levels of support, with a goal of continuous

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improvement in student achievement and alignment with the federal system of accountability.

(b) The legislature further recognizes that it is the state's responsibility to provide schools and districts with the tools and resources necessary to improve student achievement. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, recognition, and, if necessary, state intervention.

(2) The legislature has already charged the state board of education to develop criteria to identify schools and districts that are successful, in need of assistance, and those where students persistently fail, as well as to identify a range of intervention strategies and a performance incentive system. The legislature finds that the state board of education should build on the work that the board has already begun in these areas. As development of these formulas, processes, and systems progresses, the legislature should monitor the progress.

Sec. 502. RCW 28A.305.130 and 2008 c 27 s 1 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability ~~((system)) framework that creates a unified system of increasing levels of support for schools in order~~ 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) 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;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(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 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,~~

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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

~~((††))~~ (d) 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;

(5) Accredite, 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 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;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(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 board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. 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

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

NEW SECTION. Sec. 503. A new section is added to chapter 28A.305 RCW to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.

(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.

(b) The proposal shall outline a process for addressing performance challenges that will include the following features:

(i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

(5) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(6) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 111 of this act to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

PART VI COMPENSATION

NEW SECTION. Sec. 601. A new section is added to chapter 43.41 RCW to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation

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model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of financial management shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

(a) How to reduce the number of tiers within the existing salary allocation model;

(b) How to account for labor market adjustments;

(c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;

(d) The role of and types of bonuses available;

(e) Ways to accomplish salary equalization over a set number of years; and

(f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in section 113 of this act. The working group shall make an initial

report to the legislature by December 1, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

PART VII GENERAL PROVISIONS--PROGRAM OF BASIC EDUCATION

Sec. 701. RCW 28A.165.005 and 2004 c 20 s 1 are each amended to read as follows:

~~((The learning assistance program requirements in))~~ This chapter ~~((are))~~ is designed to: (1) Promote the use of assessment data when developing programs to assist underachieving students; and (2) guide school districts in providing the most effective and efficient practices when implementing ~~((programs))~~ supplemental instruction and services to assist underachieving students. ~~((Further, this chapter provides the means by which a school district becomes eligible for learning assistance program funds and the distribution of those funds:))~~

Sec. 702. RCW 28A.165.015 and 2004 c 20 s 2 are each amended to read as follows:

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

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, and mathematics as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade ~~((eleven who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services. Beginning with the 2007-2008 school year, "participating student" means a student in kindergarten through grade))~~ twelve who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

Sec. 703. RCW 28A.165.055 and 2008 c 321 s 10 are each amended to read as follows:

~~((+))~~ Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with RCW 28A.150.260 and the ~~((biennial))~~ omnibus appropriations act. The distribution formula is for school district allocation purposes only, but funds appropriated for the learning assistance program must be expended for the purposes of RCW 28A.165.005 through 28A.165.065. ((The distribution formula shall be based on one or more family income factors measuring economic need:

~~— (2) In addition to the funds allocated to eligible school districts on the basis of family income factors, enhanced funds shall be allocated for school districts where more than twenty percent of students are eligible for and enrolled in the transitional bilingual instruction program under chapter 28A.180 RCW as provided in this subsection. The enhanced funding provided in this subsection shall take effect beginning in the 2008-09 school year.~~

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~~—(a) If, in the prior school year, a district's percent of October headcount student enrollment in grades kindergarten through twelve who are enrolled in the transitional bilingual instruction program, based on an average of the program headcount taken in October and May, exceeds twenty percent, twenty percent shall be subtracted from the district's percent transitional bilingual instruction program enrollment and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.~~

~~—(b) The number calculated under (a) of this subsection shall be the number of additional funded students for purposes of this subsection, to be multiplied by the per-funded student allocation rates specified in the omnibus appropriations act.~~

~~—(c) School districts are only eligible for the enhanced funds under this subsection if their percentage of October headcount enrollment in grades kindergarten through twelve eligible for free or reduced-price lunch exceeded forty percent in the prior school year.)~~

Sec. 704. RCW 28A.180.010 and 1990 c 33 s 163 are each amended to read as follows:

RCW 28A.180.010 through 28A.180.080 shall be known and cited as "the transitional bilingual instruction act." The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.180.010 through 28A.180.080 to provide for the implementation of transitional bilingual education programs in the public schools (~~and to provide supplemental financial assistance to school districts to meet the extra costs of these programs~~).

Sec. 705. RCW 28A.180.080 and 1995 c 335 s 601 are each amended to read as follows:

~~((The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs.))~~ Moneys appropriated by the legislature for the purposes of RCW 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program (~~and priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district.~~ **PROVIDED,** That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills).

Sec. 706. RCW 28A.225.200 and 1990 c 33 s 234 are each amended to read as follows:

(1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education (~~and~~ **PROVIDED,** That) Notwithstanding any other provision of

law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to RCW (~~28A.150.100;~~) 28A.150.250 through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, (~~28A.160.220~~) 28A.300.035, and 28A.300.170 (~~and 28A.500.010~~) shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW 28A.340.030 which exceeds two years in duration.

NEW SECTION. Sec. 707. The following acts or parts of acts are each repealed:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;

(4) RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

(5) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

(6) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**PART VIII
MISCELLANEOUS PROVISIONS**

NEW SECTION. Sec. 801. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 802. Sections 1, 102, and 108 of this act are each added to chapter 28A.150 RCW.

NEW SECTION. Sec. 803. Section 113 of this act constitutes a new chapter in Title 28A RCW.

NEW SECTION. Sec. 804. Sections 101 through 109 and 701 through 707 of this act take effect September 1, 2011.

NEW SECTION. Sec. 805. Section 111 of 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.

NEW SECTION. Sec. 806. 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."

On page 1, line 1 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.200, 28A.150.210, 28A.150.220, 28A.150.250, 28A.150.260, 28A.150.390, 28A.150.380, 28A.230.090, 43.41.400, 28A.195.010, 28A.160.150, 28A.150.315, 28A.415.360, 28A.305.130, 28A.165.005, 28A.165.015, 28A.165.055, 28A.180.010, 28A.180.080, and 28A.225.200; adding new sections to chapter 28A.150 RCW; adding a new section to chapter 28A.300 RCW; adding new sections to chapter 43.41 RCW; adding a new section to chapter 28A.500 RCW; adding a new section to chapter 43.79 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.305 RCW; adding a new chapter to Title 28A RCW;

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creating new sections; repealing RCW 28A.150.030, 28A.150.060, 28A.150.100, 28A.150.040, 28A.150.370, and 28A.155.180; providing an effective date; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator McAuliffe to not adopt the committee striking amendment by the Committee on Ways & Means to Engrossed Substitute House Bill No. 2261.

The motion by Senator McAuliffe carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Pflug moved that Engrossed Substitute House Bill No. 2261 be deferred and the bill hold its place on the second reading calendar.

Senator Eide spoke against the motion.

The President declared the question before the Senate to be the motion by Senator Pflug that Engrossed Substitute House Bill No. 2261 be deferred and hold its place on the second reading calendar.

The motion by Senator Pflug was not carried by a voice vote.

MOTION

Senator McAuliffe moved that the following striking amendment by Senator McAuliffe and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. (1) Public education in Washington state has evolved since the enactment of the Washington basic education act of 1977. Decisions by the courts have played a part in this evolution, as have studies and research about education practices and education funding. The legislature finds ample evidence of a need for continuing to refine the program of basic education that is funded by the state and delivered by school districts.

(2) The legislature reaffirms the work of Washington Learns and other educational task forces that have been convened over the past four years and their recommendations to make bold reforms to the entire educational system in order to educate all students to a higher level; to focus on the individualized instructional needs of students; to strive towards closing the achievement gap and reducing dropout rates; and to prepare students for a constantly evolving workforce and increasingly demanding global economy. In enacting this legislation, the legislature intends to continue to review, evaluate, and revise the definition and funding of basic education in order to continue to fulfill the state obligation under Article IX of the state Constitution. The legislature also intends to continue to strengthen and modify the structure of the entire K-12 educational system, including nonbasic education programmatic elements, in order to build the capacity to anticipate and support potential future enhancements to basic education as the educational needs of our citizens continue to evolve.

(3) The legislature recognizes that the first step in revising the definition and funding of basic education is to create a transparent funding system for both allocations and expenditures so that not only policymakers and educators understand how the state supports basic education but also taxpayers. An adequate data system that enables the legislature to make rational, data-driven decisions on which educational programs impact student learning in order to more effectively and efficiently deliver the resources necessary to provide an ample program of basic education is also a necessity. A new prototypical funding

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system will allow the legislature to better understand how current resources are being used. A more complete and accurate educational data system will allow the legislature to understand whether current basic education programs are supporting student learning. Only with both of these systems in place can the legislature make informed decisions on how to best implement a dynamic and evolving system of basic education.

(4) For practical and educational reasons, major changes of the program of basic education and the funding formulas to support it cannot occur instantaneously. The legislature intends to build upon the previous efforts of the legislature and the basic education task force in order to develop a realistic implementation strategy for a new instructional program after technical experts develop the details of the prototypical schools funding formulas and the data and reporting system that will support a new instructional program. The legislature also intends to establish a formal structure for monitoring the implementation by the legislature of an evolving program of basic education and the financing necessary to support such a program. The legislature intends that the redefined program of basic education and funding for the program be fully implemented by 2018.

(5) It is the further intent of the legislature to also address additional issues that are of importance to the legislature but are not part of basic education.

NEW SECTION. Sec. 2. It is the intent of the legislature that specified policies and allocation formulas adopted under this act will constitute the legislature's definition of basic education under Article IX of the state Constitution once fully implemented. The legislature intends, however, to continue to review and revise the formulas and schedules and may make additional revisions, including revisions for technical purposes and consistency in the event of mathematical or other technical errors.

PART I PROGRAM AND FUNDING OF BASIC EDUCATION

Sec. 101. RCW 28A.150.200 and 1990 c 33 s 104 are each amended to read as follows:

~~((This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW 28A.150.210, (2) those program requirements enumerated in RCW 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW 28A.150.250 and 28A.150.260.~~

~~The requirements of the Basic Education Act are)) (1) The program of basic education established under this chapter is deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex," and ((are)) is adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools."~~

(2) The legislature defines the program of basic education under this chapter as that which is necessary to provide the opportunity to develop the knowledge and skills necessary to meet the state-established high school graduation requirements that are intended to allow students to have the opportunity to graduate with a meaningful diploma that prepares them for postsecondary education, gainful employment, and citizenship. Basic education by necessity is an evolving program of instruction intended to reflect the changing educational opportunities that are needed to equip students for their role as productive citizens and includes the following:

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(a) The instructional program of basic education the minimum components of which are described in RCW 28A.150.220;

(b) The program of education provided by chapter 28A.190 RCW for students in residential schools as defined by RCW 28A.190.020 and for juveniles in detention facilities as identified by RCW 28A.190.010;

(c) The program of education provided by chapter 28A.193 RCW for individuals under the age of eighteen who are incarcerated in adult correctional facilities; and

(d) Transportation and transportation services to and from school for eligible students as provided under RCW 28A.160.150 through 28A.160.180.

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

(1) "Basic education goal" means the student learning goals and the student knowledge and skills described under RCW 28A.150.210.

(2) "Certificated administrative staff" means 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).

(3) "Certificated employee" as used in this chapter and RCW 28A.195.010, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, means those persons who hold certificates as authorized by rule of the Washington professional educator standards board.

(4) "Certificated instructional staff" means those persons employed by a school district who are nonsupervisory certificated employees within the meaning of RCW 41.59.020(8).

(5) "Class size" means an instructional grouping of students where, on average, the ratio of students to teacher is the number specified.

(6) "Classified employee" means a person who does not hold a professional education certificate or is employed in a position that does not require such a certificate.

(7) "Classroom teacher" means a person who holds a professional education certificate and is employed in a position for which such certificate is required whose primary duty is the daily educational instruction of students. In exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision, but the hiring of such classified employees shall not occur during a labor dispute, and such classified employees shall not be hired to replace certificated employees during a labor dispute.

(8) "Instructional program of basic education" means the minimum program required to be provided by school districts and includes instructional hour requirements and other components under RCW 28A.150.220.

(9) "Program of basic education" means the overall program under RCW 28A.150.200 and deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution.

(10) "School day" means each day of the school year on which pupils enrolled in the common schools of a school district are engaged in academic and career and technical instruction planned by and under the direction of the school.

(11) "School year" includes the minimum number of school days required under RCW 28A.150.220 and begins on the first day of September and ends with the last day of August, except that any school district may elect to commence the annual school term in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district.

(12) "Teacher planning period" means a period of a school day as determined by the administration and board of the directors of the district that may be used by teachers for instruction-related activities including but not limited to preparing instructional materials; reviewing student performance; recording student data; consulting with other teachers, instructional assistants, mentors, instructional coaches, administrators, and parents; or participating in professional development.

Sec. 103. RCW 28A.150.210 and 2007 c 400 s 1 are each amended to read as follows:

((The goal of the basic education act for the schools of the state of Washington set forth in this chapter shall be)) A basic education is an evolving program of instruction that is intended to provide students with the opportunity to become responsible and respectful global citizens, to contribute to their economic well-being and that of their families and communities, to explore and understand different perspectives, and to enjoy productive and satisfying lives. Additionally, the state of Washington intends to provide for a public school system that is able to evolve and adapt in order to better focus on strengthening the educational achievement of all students, which includes high expectations for all students and gives all students the opportunity to achieve personal and academic success. To these ends, the goals of each school district, with the involvement of parents and community members, shall be to provide opportunities for every student to develop the knowledge and skills essential to:

(1) Read with comprehension, write effectively, and communicate successfully in a variety of ways and settings and with a variety of audiences;

(2) Know and apply the core concepts and principles of mathematics; social, physical, and life sciences; civics and history, including different cultures and participation in representative government; geography; arts; and health and fitness;

(3) Think analytically, logically, and creatively, and to integrate different experiences and knowledge to form reasoned judgments and solve problems; and

(4) Understand the importance of work and finance and how performance, effort, and decisions directly affect future career and educational opportunities.

Sec. 104. RCW 28A.150.220 and 1993 c 371 s 2 are each amended to read as follows:

(1) ((Satisfaction of the basic education program requirements identified in RCW 28A.150.210 shall be considered to be implemented by the following program:

~~—(a) Each school district shall make available to students enrolled in kindergarten at least a total instructional offering of four hundred fifty hours. The program shall include instruction in the essential academic learning requirements under RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;~~

~~—(b)) In order for students to have the opportunity to develop the basic education knowledge and skills under RCW 28A.150.210, school districts must provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment, and citizenship. The program established under this section shall be the minimum instructional program of basic education offered by school districts.~~

(2) Each school district shall make available to students the following minimum instructional offering each school year:

(a) For students enrolled in grades one through twelve, at least a district-wide annual average ((total instructional hour offering)) of one thousand hours((—The state board of education may define alternatives to classroom instructional time for students in grades nine through twelve enrolled in alternative

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learning experiences. ~~The state board of education shall establish rules to determine annual average instructional hours for districts including fewer than twelve grades. The program shall include the essential academic learning requirements under RCW 28A.630.885 and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such group~~), which shall be increased to at least one thousand eighty instructional hours for students enrolled in each of grades seven through twelve and at least one thousand instructional hours for students in each of grades one through six according to an implementation schedule adopted by the legislature; and

(b) For students enrolled in kindergarten, at least four hundred fifty instructional hours, which shall be increased to at least one thousand instructional hours according to the implementation schedule under RCW 28A.150.315.

(3) The instructional program of basic education provided by each school district shall include:

(a) Instruction in the essential academic learning requirements under RCW 28A.655.070;

(b) Instruction that provides students the opportunity to complete twenty-four credits for high school graduation, subject to a phased-in implementation of the twenty-four credits as established by the legislature. Course distribution requirements may be established by the state board of education under RCW 28A.230.090;

(c) If the essential academic learning requirements include a requirement of languages other than English, the requirement may be met by students receiving instruction in one or more American Indian languages;

(d) Supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065;

(e) Supplemental instruction and services for eligible and enrolled students whose primary language is other than English through the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080;

(f) The opportunity for an appropriate education at public expense as defined by RCW 28A.155.020 for all eligible students with disabilities as defined in RCW 28A.155.020; and

(g) Programs for highly capable students under RCW 28A.185.010 through 28A.185.030.

~~((2))~~ (4) Nothing contained in ~~((subsection (1) of))~~ this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

~~((3))~~ (5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten ~~((: PROVIDED, That))~~, to be increased to a minimum of one hundred eighty school days per school year according to the implementation schedule under RCW 28A.150.315. However, effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full-time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW 28A.150.250 and 28A.150.260.

~~((4))~~ (6) Nothing in this section precludes a school district from enriching the instructional program of basic education, such as offering additional instruction or providing additional services, programs, or activities that the school district determines to be appropriate for the education of the school district's students.

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~~(7)~~ The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish.

Sec. 105. RCW 28A.150.250 and 1990 c 33 s 107 are each amended to read as follows:

(1) From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.510.250 to each school district of the state operating a basic education instructional program approved by the state board of education an amount based on the formulas provided in RCW 28A.150.260, 28A.150.390, and section 109 of this act which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full-time equivalent student enrolled ~~((; based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220))~~.

(2) The instructional program of basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW ~~((28A.150.250 and))~~ 28A.150.260, 28A.150.390, and section 109 of this act to fund those program requirements identified in RCW 28A.150.220 in accordance with the formula ~~((and ratios))~~ provided in RCW 28A.150.260 and those amounts of dollars appropriated by the legislature to fund the salary requirements of RCW ~~((28A.150.100 and))~~ 28A.150.410.

~~((Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district. PROVIDED, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students. PROVIDED FURTHER, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students.))~~

(3) If a school district's basic education program fails to meet the basic education requirements enumerated in RCW ~~((28A.150.250;))~~ 28A.150.260 ~~((;))~~ and 28A.150.220, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured ~~((: PROVIDED, That))~~. However, the state board of education may waive this requirement in the event of substantial lack of classroom space.

Sec. 106. RCW 28A.150.260 and 2006 c 263 s 322 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))~~ The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

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(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 instructional allocation for each (~~annual average full time equivalent student enrolled in a~~) common school district. (~~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 RCW 28A.525.025, 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)~~) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.165, 28A.180, or 28A.155 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

(3)(a) To the extent the technical details of the formula have been adopted by the legislature, the distribution formula for the basic education instructional allocation shall be based on minimum staffing and nonstaff costs the legislature deems necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students as provided in this section. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act.

(b) For the purposes of this section, prototypical schools are defined as follows:

- (i) A prototypical high school has six hundred average annual full-time equivalent students in grades nine through twelve;
- (ii) A prototypical middle school has four hundred thirty-two average annual full-time equivalent students in grades seven and eight; and
- (iii) A prototypical elementary school has four hundred average annual full-time equivalent students in grades kindergarten through six.

(c) The minimum allocation for each level of prototypical school shall be based on the number of full-time equivalent classroom teachers needed to provide instruction over the minimum required annual instructional hours under RCW 28A.150.220 and provide at least one teacher planning period

per school day, and based on an average class size as specified in the omnibus appropriations act. The omnibus appropriations act shall at a minimum specify:

- (i) Basic average class size;
 - (ii) Basic average class size in schools where more than fifty percent of the students are eligible for free and reduced-price meals;
 - (iii) Average class size for exploratory and preparatory career and technical education, laboratory science, advanced placement, and international baccalaureate courses; and
 - (iv) Average class size in grades kindergarten through three.
- (d) The minimum allocation for each level of prototypical school shall include allocations for the following types of staff in addition to classroom teachers:
- (i) Principals, including assistant principals, and other certificated building-level administrators;
 - (ii) Teacher librarians, performing functions including information literacy, technology, and media to support school library media programs;
 - (iii) Student health services, a function that includes school nurses, whether certificated instructional or classified employee, and social workers;
 - (iv) Guidance counselors, performing functions including parent outreach and graduation advisor;
 - (v) Professional development coaches;
 - (vi) Teaching assistance, which includes any aspect of educational instructional services provided by classified employees;
 - (vii) Office support, technology support, and other noninstructional aides;
 - (viii) Custodians, warehouse, maintenance, laborer, and professional and technical education support employees; and
 - (ix) Classified staff providing student and staff safety.

(4)(a) The minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs: Student technology; utilities; curriculum, textbooks, library materials, and instructional supplies; instructional professional development for both certificated and classified staff; other building-level costs including maintenance, custodial, and security; and central office administration.

(b) The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced based on full-time equivalent student enrollment in exploratory career and technical education courses for students in grades seven through twelve; laboratory science courses for students in grades nine through twelve; preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

(5) The allocations provided under subsections (3) and (4) of this section shall be enhanced as follows to provide additional allocations for classroom teachers and maintenance, supplies, and operating costs:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the percent of students in each school who are eligible for free and reduced-price meals. The minimum allocation for the learning assistance program shall provide an extended school day and extended school year for each level of prototypical school and a per student allocation for maintenance, supplies, and operating costs.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through 28A.180.080. The minimum allocation for each level of prototypical school shall provide for supplemental instruction

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school districts to serve as resources and examples of best practices in designing and operating a high-quality all-day kindergarten program. Designated school districts shall serve as lighthouse programs and provide technical assistance to other school districts in the initial stages of implementing an all-day kindergarten program. Examples of topics addressed by the technical assistance include strategic planning, developing the instructional program and curriculum, working with early learning providers to identify students and communicate with parents, and developing kindergarten program readiness activities.

~~((3) Any funds allocated to support all-day kindergarten programs under this section shall not be considered as basic education funding.))~~

Sec. 108. RCW 28A.150.390 and 1995 c 77 s 6 are each amended to read as follows:

(1) The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for special education programs for students with disabilities. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for special education programs for students with disabilities and shall take account of state funds accruing through RCW ~~((28A.150.250,))~~ 28A.150.260 ~~((;))~~ (3) (b), (c)(i), and (d), (4), and (8) and federal medical assistance and private funds accruing under RCW 74.09.5249 through 74.09.5253 and 74.09.5254 through 74.09.5256 ~~((; and other state and local funds, excluding special excess levies)).~~

(2) The excess cost allocation to school districts shall be based on the following:

(a) A district's annual average headcount enrollment of students ages birth through four and those five year olds not yet enrolled in kindergarten who are eligible for and enrolled in special education, multiplied by the district's base allocation per full-time equivalent student, multiplied by 1.15; and

(b) A district's annual average full-time equivalent basic education enrollment, multiplied by the district's funded enrollment percent, multiplied by the district's base allocation per full-time equivalent student, multiplied by 0.9309.

(3) As used in this section:

(a) "Base allocation" means the total state allocation to all schools in the district generated by the distribution formula under RCW 28A.150.260 (3) (b), (c)(i), and (d), (4), and (8), to be divided by the district's full-time equivalent enrollment.

(b) "Basic education enrollment" means enrollment of resident students including nonresident students enrolled under RCW 28A.225.225 and students from nonhigh districts enrolled under RCW 28A.225.210 and excluding students residing in another district enrolled as part of an interdistrict cooperative program under RCW 28A.225.250.

(c) "Enrollment percent" means the district's resident special education annual average enrollment, excluding students ages birth through four and those five year olds not yet enrolled in kindergarten, as a percent of the district's annual average full-time equivalent basic education enrollment.

(d) "Funded enrollment percent" means the lesser of the district's actual enrollment percent or twelve and seven-tenths percent.

NEW SECTION. Sec. 109. (1) To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for special education funding beyond the amounts provided through the special education funding formula under RCW 28A.150.390. If the federal safety net awards based on the federal eligibility threshold exceed the federal appropriation in any fiscal year, then the superintendent shall expend all available federal discretionary funds necessary to meet this need. Safety net funds shall be awarded by the state safety net oversight committee subject to the following conditions and limitations:

(a) The committee shall consider additional funds for districts that can convincingly demonstrate that all legitimate expenditures for special education exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state revenues related to services for special education-eligible students and all federal revenues from federal impact aid, Medicaid, and the individuals with disabilities education act-Part B and appropriate special projects. Awards associated with (b) and (c) of this subsection shall not exceed the total of a district's specific determination of need.

(b) The committee shall then consider the extraordinary high cost needs of one or more individual special education students. Differences in costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards.

(c) Using criteria developed by the committee, the committee shall then consider extraordinary costs associated with communities that draw a larger number of families with children in need of special education services, which may include consideration of proximity to group homes, military bases, and regional hospitals. Safety net awards under this subsection (1)(c) shall be adjusted to reflect amounts awarded under (b) of this subsection.

(d) The maximum allowable indirect cost for calculating safety net eligibility may not exceed the federal restricted indirect cost rate for the district plus one percent.

(e) Safety net awards shall be adjusted based on the percent of potential Medicaid eligible students billed as calculated by the superintendent of public instruction in accordance with chapter 318, Laws of 1999.

(f) Safety net awards must be adjusted for any audit findings or exceptions related to special education funding.

(2) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the special education funding and safety net award process. Before revising any standards, procedures, or rules, the superintendent shall consult with the office of financial management and the fiscal committees of the legislature. In adopting and revising the rules, the superintendent shall ensure the application process to access safety net funding is streamlined, timelines for submission are not in conflict, feedback to school districts is timely and provides sufficient information to allow school districts to understand how to correct any deficiencies in a safety net application, and that there is consistency between awards approved by school district and by application period. The office of the superintendent of public instruction shall also provide technical assistance to school districts in preparing and submitting special education safety net applications.

(3) On an annual basis, the superintendent shall survey districts regarding their satisfaction with the safety net process and consider feedback from districts to improve the safety net process. Each year by December 1st, the superintendent shall prepare and submit a report to the office of financial management and the appropriate policy and fiscal committees of the legislature that summarizes the survey results and those changes made to the safety net process as a result of the school district feedback.

(4) The safety net oversight committee appointed by the superintendent of public instruction shall consist of:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor who shall be nonvoting members of the committee; and

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(c) One or more representatives from school districts or educational service districts knowledgeable of special education programs and funding.

Sec. 110. RCW 28A.150.380 and 2001 c 3 s 10 are each amended to read as follows:

(1) The state legislature shall, at each regular session in an odd-numbered year, appropriate ~~((from the state general fund))~~ for the current use of the common schools such amounts as needed for state support to ~~((the common schools)) school districts during the ensuing biennium ((as provided in this chapter, RCW 28A.160.150 through 28A.160.210, 28A.300.170, and 28A.500.010))~~ for the program of basic education under RCW 28A.150.200.

(2) In addition to those state funds provided to school districts for basic education, the legislature may appropriate funds to be distributed to school districts for other factors and for other special programs to enhance or enrich the program of basic education.

(3) The state legislature shall also, at each regular session in an odd-numbered year, appropriate from the student achievement fund and education construction fund solely for the purposes of and in accordance with the provisions of the student achievement act during the ensuing biennium.

Sec. 111. RCW 28A.230.090 and 2006 c 114 s 3 are each amended to read as follows:

(1) The state board of education shall establish high school graduation requirements or equivalencies for students, except those equivalencies established by local high schools or school districts under RCW 28A.230.097.

(a) Any course in Washington state history and government used to fulfill high school graduation requirements shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state.

(b) The certificate of academic achievement requirements under RCW 28A.655.061 or the certificate of individual achievement requirements under RCW 28A.155.045 are required for graduation from a public high school but are not the only requirements for graduation.

(c) Any decision on whether a student has met the state board's high school graduation requirements for a high school and beyond plan shall remain at the local level.

(2)(a) In recognition of the statutory authority of the state board of education to establish and enforce minimum high school graduation requirements, the state board shall periodically reevaluate the graduation requirements and shall report such findings to the legislature in a timely manner as determined by the state board.

(b) The state board shall reevaluate the graduation requirements for students enrolled in vocationally intensive and rigorous career and technical education programs, particularly those programs that lead to a certificate or credential that is state or nationally recognized. The purpose of the evaluation is to ensure that students enrolled in these programs have sufficient opportunity to earn a certificate of academic achievement, complete the program and earn the program's certificate or credential, and complete other state and local graduation requirements. ~~((The board shall reports [report] its findings and recommendations for additional flexibility in graduation requirements, if necessary, to the legislature by December 1, 2007-))~~

(c) The state board shall forward any proposed changes to the high school graduation requirements to the education committees of the legislature for review and to the quality education council established under section 114 of this act. The legislature shall have the opportunity to act during a regular legislative session before the changes are adopted through administrative rule by the state board. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized and

funded by the legislature through the omnibus appropriations act or other enacted legislation.

(3) Pursuant to any requirement for instruction in languages other than English established by the state board of education or a local school district, or both, for purposes of high school graduation, students who receive instruction in American sign language or one or more American Indian languages shall be considered to have satisfied the state or local school district graduation requirement for instruction in one or more languages other than English.

(4) If requested by the student and his or her family, a student who has completed high school courses before attending high school shall be given high school credit which shall be applied to fulfilling high school graduation requirements if:

(a) The course was taken with high school students, if the academic level of the course exceeds the requirements for seventh and eighth grade classes, and the student has successfully passed by completing the same course requirements and examinations as the high school students enrolled in the class; or

(b) The academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors.

(5) Students who have taken and successfully completed high school courses under the circumstances in subsection (4) of this section shall not be required to take an additional competency examination or perform any other additional assignment to receive credit.

(6) At the college or university level, five quarter or three semester hours equals one high school credit.

NEW SECTION. Sec. 112. (1) The legislature intends to continue to redefine the instructional program of education under RCW 28A.150.220 that fulfills the obligations and requirements of Article IX of the state Constitution. The funding formulas under RCW 28A.150.260 to support the instructional program shall be implemented to the extent the technical details of the formula have been established and according to an implementation schedule to be adopted by the legislature. The object of the schedule is to assure that any increases in funding allocations are timely, predictable, and occur concurrently with any increases in program or instructional requirements. It is the intent of the legislature that no increased programmatic or instructional expectations be imposed upon schools or school districts without an accompanying increase in resources as necessary to support those increased expectations.

(2) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to:

(a) Develop the details of the funding formulas under RCW 28A.150.260;

(b) Recommend to the legislature an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature; and

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature and the quality education council created in section 114 of this act for consideration.

(3) The working group shall include representatives of the legislative evaluation and accountability program committee, school district and educational service district financial managers, the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory

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subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The working group shall be monitored and overseen by the legislature and the quality education council established in section 114 of this act. The working group shall submit its recommendations to the legislature by December 1, 2009.

NEW SECTION. Sec. 113. A new section is added to chapter 28A.300 RCW to read as follows:

(1) As part of the estimates and information submitted to the governor by the superintendent of public instruction under RCW 28A.300.170, the superintendent of public instruction shall biennially make determinations on the educational system's capacity to accommodate increased resources in relation to the elements in the prototypical funding allocation model. In areas where there are specific and significant capacity limitations to providing enhancements to a recommended element, the superintendent of public instruction shall identify those limitations and make recommendations on how to address the issue.

(2) The legislature shall:

(a) Review the recommendations of the superintendent of public instruction submitted under subsection (1) of this section; and

(b) Use the information as it continues to review, evaluate, and revise the definition and funding of basic education in a manner that serves the educational needs of the citizen's of Washington; continues to fulfill the state's obligation under Article IX of the state Constitution and ensures that no enhancements are imposed on the educational system that cannot be accommodated by the existing system capacity.

(3) "System capacity" for purposes of this section includes, but is not limited to, the ability of schools and districts to provide the capital facilities necessary to support a particular instructional program, the staffing levels necessary to support an instructional program both in terms of actual numbers of staff as well as the experience level and types of staff available to fill positions, the higher education systems capacity to prepare the next generation of educators, and the availability of data and a data system capable of helping the state allocate its resources in a manner consistent with evidence-based practices that are shown to improve student learning.

(4) The office of the superintendent of public instruction shall report to the legislature on a biennial basis beginning December 1, 2010.

NEW SECTION. Sec. 114. (1) The quality education council is created to recommend and inform the ongoing implementation by the legislature of an evolving program of basic education and the financing necessary to support such program. The council shall develop strategic recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under section 113 of this act and the availability of data and progress of implementing the data systems required under section 202 of this act. Any recommendations for modifications to the program of basic education shall be based on evidence that the programs effectively support student learning. The council shall update the statewide strategic recommendations every four years. The recommendations of the council are intended to:

(a) Inform future educational policy and funding decisions of the legislature and governor;

(b) Identify measurable goals and priorities for the educational system in Washington state for a ten-year time period, including the goals of basic education and ongoing strategies for coordinating statewide efforts to eliminate the achievement gap and reduce student dropout rates; and

(c) Enable the state of Washington to continue to implement an evolving program of basic education.

(2) The council may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards

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board, and the department of early learning on the work of the agencies as well as educational working groups established by the legislature.

(3) The chair of the council shall be selected from the councilmembers. The council shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, professional educator standards board, and department of early learning.

(4) In the 2009 fiscal year, the council shall meet as often as necessary as determined by the chair. In subsequent years, the council shall meet no more than four times a year.

(5)(a) The council shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of chapter . . . , Laws of 2009 (this act).

(b) The initial report shall, at a minimum, include:

(i) Consideration of how to establish a statewide beginning teacher mentoring and support system;

(ii) Recommendations for a program of early learning for at-risk children;

(iii) A recommended schedule for the concurrent phase-in of the changes to the instructional program of basic education and the implementation of the funding formulas and allocations to support the new instructional program of basic education as established under chapter . . . , Laws of 2009 (this act). The phase-in schedule shall have full implementation completed by September 1, 2018; and

(iv) A recommended schedule for phased-in implementation of the new distribution formula for allocating state funds to school districts for the transportation of students to and from school, with phase-in beginning no later than September 1, 2013.

(6) The council shall be staffed by the office of the superintendent of public instruction and the office of financial management. Additional staff support shall be provided by the state entities with representatives on the committee. Senate committee services and the house of representatives office of program research may provide additional staff support.

(7) Legislative members of the council shall serve without additional compensation but may be reimbursed for travel expenses in accordance with RCW 44.04.120 while attending sessions of the council or on official business authorized by the council. Nonlegislative members of the council may be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

NEW SECTION. Sec. 115. (1) The legislature finds that a critical factor in the eventual successful outcome of a K-12 education is for students to begin school ready, both intellectually and socially, to learn. The legislature also finds that, due to a variety of factors, disadvantaged young children need supplemental instruction in preschool to assure that they have the opportunity to meaningfully participate and reach the necessary levels of achievement in the regular program of basic education. Therefore the legislature intends to establish a program of early learning for at-risk children and intends to include this program within the overall program of basic education.

(2) The office of the superintendent of public instruction, with the support and assistance from the department of early learning, shall convene a working group to develop the basic

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education program of early learning. The early learning working group shall be composed of representatives from head start and early childhood education and assistance program providers, school districts, thrive by five Washington, and other stakeholders with expertise in early learning. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(3) The early learning working group shall continue the preliminary work of the department of early learning under RCW 43.215.125 to develop a proposal for a statewide Washington head start program. The working group shall:

(a) Recommend student eligibility criteria that focus on children age three and four considered most at-risk;

(b) Develop options for a service delivery system that includes school districts, educational service districts, community and technical colleges, and public and private nonsectarian organizations;

(c) Develop options for shared governance that include the superintendent of public instruction and the department of early learning each with appropriate supervisory and administrative responsibilities;

(d) Develop recommended parameters and minimum standards for the program; and

(e) Continue development of a statewide kindergarten assessment process.

(4) The early learning working group shall be monitored and overseen by the quality education council established in section 114 of this act and shall submit progress reports to the council by September 1, 2010, and September 1, 2011, with a final report by September 1, 2012.

PART II EDUCATION DATA IMPROVEMENT SYSTEM

Sec. 201. RCW 43.41.400 and 2007 c 401 s 3 are each amended to read as follows:

(1) An education data center shall be established in the office of financial management. The education data center shall jointly, with the legislative ~~((education evaluation))~~ evaluation and accountability program committee, conduct collaborative analyses of early learning, K-12, and higher education programs and education issues across the P-20 system, which includes the department of early learning, the superintendent of public instruction, the professional educator standards board, the state board of education, the state board for community and technical colleges, the workforce training and education coordinating board, the higher education coordinating board, public and private nonprofit four-year institutions of higher education, and the employment security department. The education data center shall conduct collaborative analyses under this section with the legislative evaluation and accountability program committee and provide data electronically to the legislative evaluation and accountability program committee, to the extent permitted by state and federal confidentiality requirements. The education data center shall be considered an authorized representative of the state educational agencies in this section under applicable federal and state statutes for purposes of accessing and compiling student record data for research purposes.

(2) The education data center shall:

(a) In consultation with the legislative evaluation and accountability program committee and the agencies and organizations participating in the education data center, identify the critical research and policy questions that are intended to be addressed by the education data center and the data needed to address the questions;

(b) Coordinate with other state education agencies to compile and analyze education data, including data on student demographics that is disaggregated by distinct ethnic categories within racial subgroups, and complete P-20 research projects;

~~((b))~~ (c) Collaborate with the legislative evaluation and accountability program committee and the education and fiscal committees of the legislature in identifying the data to be compiled and analyzed to ensure that legislative interests are served;

~~((c))~~ (d) Annually provide to the K-12 data governance group a list of data elements and data quality improvements that are necessary to answer the research and policy questions identified by the education data center and have been identified by the legislative committees in (c) of this subsection. Within three months of receiving the list, the K-12 data governance group shall develop and transmit to the education data center a feasibility analysis of obtaining or improving the data, including the steps required, estimated time frame, and the financial and other resources that would be required. Based on the analysis, the education data center shall submit, if necessary, a recommendation to the legislature regarding any statutory changes or resources that would be needed to collect or improve the data;

(e) Monitor and evaluate the education data collection systems of the organizations and agencies represented in the education data center ensuring that data systems are flexible, able to adapt to evolving needs for information, and to the extent feasible and necessary, include data that are needed to conduct the analyses and provide answers to the research and policy questions identified in (a) of this subsection;

(f) Track enrollment and outcomes through the public centralized higher education enrollment system;

~~((d))~~ (g) Assist other state educational agencies' collaborative efforts to develop a long-range enrollment plan for higher education including estimates to meet demographic and workforce needs; ~~(and~~

~~((e))~~ (h) Provide research that focuses on student transitions within and among the early learning, K-12, and higher education sectors in the P-20 system; ~~and~~

(i) Make recommendations to the legislature as necessary to help ensure the goals and objectives of this section and sections 202 and 203 of this act are met.

(3) The department of early learning, superintendent of public instruction, professional educator standards board, state board of education, state board for community and technical colleges, workforce training and education coordinating board, higher education coordinating board, public four-year institutions of higher education, and employment security department shall work with the education data center to develop data-sharing and research agreements, consistent with applicable security and confidentiality requirements, to facilitate the work of the center. Private, nonprofit institutions of higher education that provide programs of education beyond the high school level leading at least to the baccalaureate degree and are accredited by the Northwest association of schools and colleges or their peer accreditation bodies may also develop data-sharing and research agreements with the education data center, consistent with applicable security and confidentiality requirements. The education data center shall make data from collaborative analyses available to the education agencies and institutions that contribute data to the education data center to the extent allowed by federal and state security and confidentiality requirements applicable to the data of each contributing agency or institution.

NEW SECTION. Sec. 202. A new section is added to chapter 28A.655 RCW to read as follows:

(1) It is the legislature's intent to establish a comprehensive K-12 education data improvement system for financial, student, and educator data. The objective of the system is to monitor student progress, have information on the quality of the educator workforce, monitor and analyze the costs of programs, provide for financial integrity and accountability, and have the capability to link across these various data components by student, by class, by teacher, by school, by district, and statewide. Education data systems must be flexible and able to adapt to evolving needs for information, but there must be an objective

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and orderly data governance process for determining when changes are needed and how to implement them. It is the further intent of the legislature to provide independent review and evaluation of a comprehensive K-12 education data improvement system by assigning the review and monitoring responsibilities to the education data center and the legislative evaluation and accountability program committee.

(2) It is the intent that the data system specifically service reporting requirements for teachers, parents, superintendents, school boards, the legislature, the office of the superintendent of public instruction, and the public.

(3) It is the legislature's intent that the K-12 education data improvement system used by school districts and the state include but not be limited to the following information and functionality:

(a) Comprehensive educator information, including grade level and courses taught, building or location, program, job assignment, years of experience, the institution of higher education from which the educator obtained his or her degree, compensation, class size, mobility of class population, socioeconomic data of class, number of languages and which languages are spoken by students, general resources available for curriculum and other classroom needs, and number and type of instructional support staff in the building;

(b) The capacity to link educator assignment information with educator certification information such as certification number, type of certification, route to certification, certification program, and certification assessment or evaluation scores;

(c) Common coding of secondary courses and major areas of study at the elementary level or standard coding of course content;

(d) Robust student information, including but not limited to student characteristics, course and program enrollment, performance on statewide and district summative and formative assessments to the extent district assessments are used, and performance on college readiness tests;

(e) A subset of student information elements to serve as a dropout early warning system;

(f) The capacity to link educator information with student information;

(g) A common, standardized structure for reporting the costs of programs at the school and district level with a focus on the cost of services delivered to students;

(h) Separate accounting of state, federal, and local revenues and costs;

(i) Information linking state funding formulas to school district budgeting and accounting, including procedures:

(i) To support the accuracy and auditing of financial data; and

(ii) Using the prototypical school model for school district financial accounting reporting;

(j) The capacity to link program cost information with student performance information to gauge the cost-effectiveness of programs;

(k) Information that is centrally accessible and updated regularly; and

(l) An anonymous, nonidentifiable replicated copy of data that is updated at least quarterly, and made available to the public by the state.

(4) It is the legislature's goal that all school districts have the capability to collect state-identified common data and export it in a standard format to support a statewide K-12 education data improvement system under this section.

(5) It is the legislature's intent that the K-12 education data improvement system be developed to provide the capability to make reports as required under section 203 of this act available.

(6) It is the legislature's intent that school districts collect and report new data elements to satisfy the requirements of RCW 43.41.400, this section, and section 203 of this act, only to the extent funds are available for this purpose.

NEW SECTION. Sec. 203. A new section is added to chapter 28A.300 RCW to read as follows:

(1) A K-12 data governance group shall be established within the office of the superintendent of public instruction to assist in the design and implementation of a K-12 education data improvement system for financial, student, and educator data. It is the intent that the data system reporting specifically serve requirements for teachers, parents, superintendents, school boards, the office of the superintendent of public instruction, the legislature, and the public.

(2) The K-12 data governance group shall include representatives of the education data center, the office of the superintendent of public instruction, the legislative evaluation and accountability program committee, the professional educator standards board, the state board of education, and school district staff, including information technology staff. Additional entities with expertise in education data may be included in the K-12 data governance group.

(3) The K-12 data governance group shall:

(a) Identify the critical research and policy questions that need to be addressed by the K-12 education data improvement system;

(b) Identify reports and other information that should be made available on the internet in addition to the reports identified in subsection (5) of this section;

(c) Create a comprehensive needs requirement document detailing the specific information and technical capacity needed by school districts and the state to meet the legislature's expectations for a comprehensive K-12 education data improvement system as described under section 202 of this act;

(d) Conduct a gap analysis of current and planned information compared to the needs requirement document, including an analysis of the strengths and limitations of an education data system and programs currently used by school districts and the state, and specifically the gap analysis must look at the extent to which the existing data can be transformed into canonical form and where existing software can be used to meet the needs requirement document;

(e) Focus on financial and cost data necessary to support the new K-12 financial models and funding formulas, including any necessary changes to school district budgeting and accounting, and on assuring the capacity to link data across financial, student, and educator systems; and

(f) Define the operating rules and governance structure for K-12 data collections, ensuring that data systems are flexible and able to adapt to evolving needs for information, within an objective and orderly data governance process for determining when changes are needed and how to implement them. Strong consideration must be made to the current practice and cost of migration to new requirements. The operating rules should delineate the coordination, delegation, and escalation authority for data collection issues, business rules, and performance goals for each K-12 data collection system, including:

(i) Defining and maintaining standards for privacy and confidentiality;

(ii) Setting data collection priorities;

(iii) Defining and updating a standard data dictionary;

(iv) Ensuring data compliance with the data dictionary;

(v) Ensuring data accuracy; and

(vi) Establishing minimum standards for school, student, financial, and teacher data systems. Data elements may be specified "to the extent feasible" or "to the extent available" to collect more and better data sets from districts with more flexible software. Nothing in RCW 43.41.400, this section, or section 202 of this act should be construed to require that a data dictionary or reporting should be hobbled to the lowest common set. The work of the K-12 data governance group must specify which data are desirable. Districts that can meet these requirements shall report the desirable data. Funding from the legislature must establish which subset data are absolutely required.

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(4)(a) The K-12 data governance group shall provide updates on its work as requested by the education data center and the legislative evaluation and accountability program committee.

(b) The work of the K-12 data governance group shall be periodically reviewed and monitored by the educational data center and the legislative evaluation and accountability program committee.

(5) To the extent data is available, the office of the superintendent of public instruction shall make the following minimum reports available on the internet. The reports must either be run on demand against current data, or, if a static report, must have been run against the most recent data:

(a) The percentage of data compliance and data accuracy by school district;

(b) The magnitude of spending per student, by student estimated by the following algorithm and reported as the detailed summation of the following components:

(i) An approximate, prorated fraction of each teacher or human resource element that directly serves the student. Each human resource element must be listed or accessible through online tunneling in the report;

(ii) An approximate, prorated fraction of classroom or building costs used by the student;

(iii) An approximate, prorated fraction of transportation costs used by the student; and

(iv) An approximate, prorated fraction of all other resources within the district. District-wide components should be disaggregated to the extent that it is sensible and economical;

(c) The cost of K-12 basic education, per student, by student, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(d) The cost of K-12 special education services per student, by student receiving those services, by school district, estimated by the algorithm in (b) of this subsection, and reported in the same manner as required in (b) of this subsection;

(e) Improvement on the statewide assessments computed as both a percentage change and absolute change on a scale score metric by district, by school, and by teacher that can also be filtered by a student's length of full-time enrollment within the school district;

(f) Number of K-12 students per classroom teacher on a per teacher basis;

(g) Number of K-12 classroom teachers per student on a per student basis;

(h) Percentage of a classroom teacher per student on a per student basis; and

(i) The cost of K-12 education per student by school district sorted by federal, state, and local dollars.

(6) The superintendent of public instruction shall submit a preliminary report to the legislature by November 15, 2009, including the analyses by the K-12 data governance group under subsection (3) of this section and preliminary options for addressing identified gaps. A final report, including a proposed phase-in plan and preliminary cost estimates for implementation of a comprehensive data improvement system for financial, student, and educator data shall be submitted to the legislature by September 1, 2010.

(7) All reports and data referenced in this section, RCW 43.41.400, and section 202 of this act shall be made available in a manner consistent with the technical requirements of the legislative evaluation and accountability program committee and the education data center so that selected data can be provided to the legislature, governor, school districts, and the public.

(8) Reports shall contain data to the extent it is available. All reports must include documentation of which data are not available or are estimated. Reports must not be suppressed because of poor data accuracy or completeness. Reports may be accompanied with documentation to inform the reader of why some data are missing or inaccurate or estimated.

NEW SECTION. Sec. 204. A new section is added to chapter 43.41 RCW to read as follows:

The education data center and the superintendent of public instruction shall take all actions necessary to secure federal funds to implement sections 201 through 203 of this act.

PART III OTHER EDUCATIONAL PROVISIONS

NEW SECTION. Sec. 301. A new section is added to chapter 28A.500 RCW to read as follows:

(1) The legislature finds that while the state has the responsibility to provide for a general and uniform system of public schools, there is also a need for some diversity in the public school system. A successful system of public education must permit some variation among school districts outside the basic education provided for by the state to respond to and reflect the unique desires of local communities. The opportunity for local communities to invest in enriched education programs promotes support for local public schools. Further, the ability of local school districts to experiment with enriched programs can inform the legislature's long-term evolution of the definition of basic education. Therefore, local levy authority remains an important component of the overall finance system in support of the public schools even though it is outside the state's obligation for basic education.

(2) However, the value of permitting local levies must be balanced with the value of equity and fairness to students and to taxpayers, neither of whom should be unduly disadvantaged due to differences in the tax bases used to support local levies. Equity and fairness require both an equitable basis for supplemental funding outside basic education and a mechanism for property tax-poor school districts to fairly access supplemental funding. As such, local effort assistance, while also outside the state's obligation for basic education, is another important component of school finance.

NEW SECTION. Sec. 302. (1) Beginning July 1, 2010, the office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to develop options for a new system of supplemental school funding through local school levies and local effort assistance.

(2) The working group shall consider the impact on overall school district revenues of the new basic education funding system established under this act and shall recommend a phase-in plan that ensures that no school district suffers a decrease in funding from one school year to the next due to implementation of the new system of supplemental funding.

(3) The working group shall be composed of representatives from the department of revenue, the legislative evaluation and accountability program committee, school district and educational service district financial managers, and representatives of the Washington association of school business officers, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with expertise in education finance. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(4) The local funding working group shall be monitored and overseen by the legislature and by the quality education council created in section 114 of this act. The working group shall report to the legislature December 1, 2011.

Sec. 303. RCW 28A.195.010 and 2004 c 19 s 106 are each amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual

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graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. The state board of education shall not require private school students to meet the student learning goals, obtain a certificate of academic achievement, or a certificate of individual achievement to graduate from high school, to master the essential academic learning requirements, or to be assessed pursuant to RCW 28A.655.061. However, private schools may choose, on a voluntary basis, to have their students master these essential academic learning requirements, take the assessments, and obtain a certificate of academic achievement or a certificate of individual achievement. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum ~~((program)) instructional hour offerings ((as prescribed in RCW 28A.150.220)), with a school-wide annual average total instructional hour offering of one thousand hours for students enrolled in grades one through twelve, and at least four hundred fifty hours for students enrolled in kindergarten.~~

(2) The school day shall be the same as ~~((that required in RCW 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools)) defined in section 102 of this act.~~

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) of this section provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

Sec. 304. RCW 28A.160.150 and 1996 c 279 s 1 are each amended to read as follows:

Funds allocated for transportation costs, except for funds provided for transportation and transportation services to and from school shall be in addition to the basic education allocation. The distribution formula developed in RCW 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW 28A.160.160(3). In addition, funding shall be provided for transportation services for students living within ~~((one radius mile from school))~~ the walk area as determined under RCW ((28A.160.180(2))) 28A.160.160(5).

Sec. 305. RCW 28A.160.160 and 1996 c 279 s 2 are each amended to read as follows:

For purposes of RCW 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW 28A.160.030 whose route stop is ~~((more than one radius mile from the))~~ outside the walk area for a student's school, except if the student to be transported is disabled under RCW 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

- (a) Transportation to and from route stops and schools;
- (b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW 28A.335.160;
- (c) Transportation of students between schools and learning centers for instruction specifically required by statute; and
- (d) Transportation of students with disabilities to and from schools and agencies for special education services.

Academic extended day transportation for the instructional program of basic education under RCW 28A.150.220 shall ((not)) be considered part of transportation of students "to and from school" for the purposes of ((chapter 61, Laws of 1983 1st ex. sess)) this section. Transportation for field trips may not be

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considered part of transportation of students "to and from school" under this section.

(4) "Transportation services" for students living within ~~((one radius mile from school means school transportation services including the use of buses;))~~ the walk area includes the coordination of walk-to-school programs, the funding of crossing guards, and matching funds for local and state transportation projects intended to mitigate hazardous walking conditions. Priority for transportation services shall be given to students in grades kindergarten through five.

(5) As used in this section, "walk area" means that area around a school with an adequate roadway configuration to provide students access to school with a walking distance of less than one mile. Mileage must be measured along the shortest roadway or maintained public walkway where hazardous conditions do not exist. The hazardous conditions must be documented by a process established in rule by the superintendent of public instruction and must include roadway, environmental, and social conditions. Each elementary school shall identify walk routes within the walk area.

Sec. 306. RCW 28A.160.170 and 2007 c 139 s 1 are each amended to read as follows:

Each district shall submit three times each year to the superintendent of public instruction during October, February, and May of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW 28A.160.150 ~~((for the current school year and the number of miles estimated to be driven for pupil transportation services)),~~ along with ~~((a map describing student route))~~ identification of stop locations and school locations, and (b) the number of miles driven for pupil transportation services as authorized in RCW 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district. The superintendent shall require that districts separate the costs of operating the program for the transportation of eligible students to and from school as defined by RCW 28A.160.160(3) from non-to-and-from-school pupil transportation costs in the annual financial statement. The cost, quantity, and type of all fuel purchased by school districts for use in to-and-from-school transportation shall be included in the annual financial statement.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys.

Sec. 307. RCW 28A.160.180 and 1996 c 279 s 3 are each amended to read as follows:

Each district's annual student transportation allocation shall be ~~((based on differential rates))~~ determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate ~~((a standard student mile allocation rate for determining))~~ the transportation allocation for those services provided for in RCW 28A.160.150. ~~((("Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student.))~~ The ~~((standard student mile))~~ allocation ~~((rate))~~ formula may be adjusted to include such additional differential factors as ~~((distance; restricted))~~ basic and special passenger ~~((load; circumstances that require use of special types of transportation vehicles; student with disabilities load; and small fleet maintenance))~~ counts as defined by the superintendent of public instruction, average distance to school, and number of locations served.

(2) ~~((For transportation services for students living within one radius mile from school;))~~ The allocation shall be based on a regression analysis of the number of basic and special students ~~((in grades kindergarten through five living within one radius mile as specified in the biennial appropriations act))~~ transported and as many other site characteristics that are identified as being statistically significant.

(3) ~~((The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining))~~ The transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW 28A.160.010 for services provided for in RCW 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus is the private vehicle reimbursement rate in effect on September 1st of each school year. Students transported in district-owned passenger cars must be included in the corresponding basic or special passenger counts.

(4) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the education and fiscal committees ~~((on education and ways and means of the senate and house of representatives))~~ of the legislature, a report outlining the methodology and rationale used in determining the statistical coefficients for each site characteristic used to determine the allocation ~~((rates to be used))~~ for the following year.

Sec. 308. RCW 28A.160.190 and 1990 c 33 s 145 are each amended to read as follows:

The superintendent shall notify districts of their student transportation allocation before January 15th. ~~((If the number of eligible students in a school district changes ten percent or more from the October report, and the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction.))~~ The superintendent shall ~~((to the extent funds are available;))~~ recalculate and prorate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW 28A.510.250. Such allocation payments may be based on ~~((estimated amounts))~~ the prior school year's ridership report for payments to be made in September, October, November, December, and January.

NEW SECTION. Sec. 309. A new section is added to chapter 28A.160 RCW to read as follows:

The superintendent of public instruction shall ensure that the allocation formula results in adequate appropriation for low enrollment districts, nonhigh districts, districts involved in cooperative transportation agreements, and cooperative special transportation services operated by educational service districts. If necessary, the superintendent shall develop a separate process to adjust the allocation of the districts.

NEW SECTION. Sec. 310. A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction shall encourage efficient use of state resources by providing a linear programming process that compares school district transportation operations. If a school district's operation is calculated to be less than ninety percent efficient, the regional transportation coordinators shall provide an individual review to determine what measures are available to the school district to improve efficiency. The evaluation shall include such measures as:

- (a) Efficient routing of buses;
- (b) Efficient use of vehicle capacity; and
- (c) Reasonable controls on compensation costs.

(2) The superintendent shall submit to the fiscal and education committees of the legislature no later than December 1st of each year a report summarizing the efficiency reviews and the resulting changes implemented by school districts in response to the recommendations of the regional transportation coordinators.

NEW SECTION. Sec. 311. A new section is added to chapter 28A.160 RCW to read as follows:

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(1) The superintendent of public instruction shall phase-in the implementation of the distribution formula under this chapter for allocating state funds to school districts for the transportation of students to and from school. The phase-in shall be according to the implementation schedule adopted by the legislature and shall begin no later than the 2013-14 school year.

(a) The formula must be developed and revised on an ongoing basis using the major cost factors in student transportation, including basic and special student loads, school district land area, average distance to school, roadway miles, and number of locations served. Factors must include all those site characteristics that are statistically significant after analysis of the data required by the revised reporting process.

(b) The formula must allocate funds to school districts based on the average predicted costs of transporting students to and from school, using a regression analysis.

(2) During the phase-in period, funding provided to school districts for student transportation operations shall be distributed on the following basis:

(a) Annually, each school district shall receive the lesser of the previous school year's pupil transportation operations allocation, or the total of allowable pupil transportation expenditures identified on the previous school year's final expenditure report to the state plus district indirect expenses using the state recovery rate identified by the superintendent; and

(b) Annually, any funds appropriated by the legislature in excess of the maintenance level funding amount for student transportation shall be distributed among school districts on a prorated basis using the difference between the amount identified in (a) of this subsection and the amount determined under the formula in RCW 28A.160.180.

(3) The superintendent shall develop, implement, and provide a copy of the rules specifying the student transportation reporting requirements to the legislature and school districts no later than December 1, 2009.

(4) Beginning in December 2009, and continuing until December 2014, the superintendent shall provide quarterly updates and progress reports to the fiscal committees of the legislature on the implementation and testing of the distribution formula.

PART IV CERTIFICATION AND PROFESSIONAL DEVELOPMENT

NEW SECTION. Sec. 401. The legislature recognizes that the key to providing all students the opportunity to achieve the basic education goal is effective teaching and leadership. Teachers, principals, and administrators must be provided with access to the opportunities they need to gain the knowledge and skills that will enable them to be increasingly successful in their classroom and schools. A system that clearly defines, supports, measures, and recognizes effective teaching and leadership is one of the most important investments to be made.

NEW SECTION. Sec. 402. A new section is added to chapter 28A.410 RCW to read as follows:

(1)(a) By January 1, 2010, the professional educator standards board shall adopt a set of articulated teacher knowledge, skill, and performance standards for effective teaching that are evidence-based, measurable, meaningful, and documented in high quality research as being associated with improved student learning. The standards shall be calibrated for each level of certification and along the entire career continuum. In developing the standards, the board shall, to the extent possible, incorporate standards for cultural competency along the entire continuum. For the purposes of this subsection, "cultural competency" includes knowledge of student cultural histories and contexts, as well as family norms and values in different cultures; knowledge and skills in accessing community

resources and community and parent outreach; and skills in adapting instruction to students' experiences and identifying cultural contexts for individual students.

(b) By January 1, 2010, the professional educator standards board shall adopt a definition of master teacher, with a comparable level of increased competency between professional certification level and master level as between professional certification level and national board certification. Within the definition established by the professional educator standards board, teachers certified through the national board for professional teaching standards shall be considered master teachers.

(2) By January 1, 2010, the professional educator standards board shall submit to the governor and the education and fiscal committees of the legislature:

(a) An update on the status of implementation of the professional certificate external and uniform assessment authorized in RCW 28A.410.210;

(b) A proposal for a uniform, statewide, valid, and reliable classroom-based means of evaluating teacher effectiveness as a culminating measure at the preservice level that is to be used during the student-teaching field experience. This assessment shall include multiple measures of teacher performance in classrooms, evidence of positive impact on student learning, and shall include review of artifacts, such as use of a variety of assessment and instructional strategies, and student work. The proposal shall establish a timeline for when the assessment will be required for successful completion of a Washington state-approved teacher preparation program. The timeline shall take into account the capacity of the K-12 education and higher education systems to accommodate the new assessment. The proposal and timeline shall also address how the assessment will be included in state-reported data on preparation program quality; and

(c) A recommendation on the length of time that a residency certificate issued to a teacher is valid and within what time period a teacher must meet the minimum level of performance for and receive a professional certificate in order to continue being certified as a teacher. In developing this recommendation, the professional educator standards board shall consult with interested stakeholders including the Washington education association, the Washington association of school administrators, association of Washington school principals, and the Washington state school directors' association and shall include with its recommendation a description of each stakeholder's comments on the recommendation.

(3) The update and proposal in subsection (2)(a) and (b) of this section shall include, at a minimum, descriptions of:

(a) Estimated costs and statutory authority needed for further development and implementation of these assessments;

(b) A common and standardized rubric for determining whether a teacher meets the minimum level of performance of the assessments; and

(c) Administration and management of the assessments.

(4) To the extent that funds are appropriated for this purpose and in accordance with the timeline established in subsection (2) of this section, recognizing the capacity limitations of the education systems, the professional educator standards board shall develop the system and process as established in subsections (1), (2), and (3) of this section throughout the remainder of the 2010-11 and 2011-12 school years.

(5) Beginning no earlier than September 1, 2011, award of a professional certificate shall be based on a minimum of two years of successful teaching experience as defined by the board and on the results of the evaluation authorized under RCW 28A.410.210(14) and under this section, and may not require candidates to enroll in a professional certification program.

(6) Beginning July 1, 2011, educator preparation programs approved to offer the residency teaching certificate shall be required to demonstrate how the program produces effective teachers as evidenced by the measures established under this

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section and other criteria established by the professional educator standards board.

Sec. 403. RCW 28A.415.360 and 2007 c 402 s 9 are each amended to read as follows:

(1) Subject to funds appropriated for this purpose, targeted professional development programs, to be known as learning improvement days, are authorized to further the development of outstanding mathematics, science, and reading teaching and learning opportunities in the state of Washington. The intent of this section is to provide guidance for the learning improvement days in the omnibus appropriations act. The learning improvement days authorized in this section shall not be considered part of the definition of basic education.

(2) ~~((The expected outcomes of these programs are))~~ A school district is eligible to receive funding for learning improvement days that are limited to specific activities related to student learning that contribute to the following outcomes:

(a) Provision of meaningful, targeted professional development for all teachers in mathematics, science, or reading;

(b) Increased knowledge and instructional skill for mathematics, science, or reading teachers;

(c) Increased use of curriculum materials with supporting diagnostic and supplemental materials that align with state standards;

(d) Skillful guidance for students participating in alternative assessment activities;

(e) Increased rigor of course offerings especially in mathematics, science, and reading;

(f) Increased student opportunities for focused, applied mathematics and science classes;

(g) Increased student success on state achievement measures; and

(h) Increased student appreciation of the value and uses of mathematics, science, and reading knowledge and exploration of related careers.

(3) School districts receiving resources under this section shall submit reports to the superintendent of public instruction ~~((regarding the use of the funds;))~~ documenting how the use of the funds ~~((is associated with))~~ contributes to measurable improvement in the ~~((expected))~~ outcomes described under subsection (2) of this section; and how other professional development resources and programs authorized in statute or in the omnibus appropriations act contribute to the expected outcomes. The superintendent of public instruction and the office of financial management shall collaborate on required report content and format.

PART V SHARED ACCOUNTABILITY FOR SCHOOL AND DISTRICT IMPROVEMENT

NEW SECTION. Sec. 501. (1)(a) The legislature intends to develop a system in which the state and school districts share accountability for achieving state educational standards and supporting continuous school improvement. The legislature recognizes that comprehensive education finance reform and the increased investment of public resources necessary to implement that reform must be accompanied by a new mechanism for clearly defining the relationships and expectations for the state, school districts, and schools. It is the legislature's intent that this be accomplished through the development of a proactive, collaborative accountability system that focuses on a school improvement system that engages and serves the local school board, parents, students, staff in the schools and districts, and the community. The improvement system shall be based on progressive levels of support, with a goal of continuous improvement in student achievement and alignment with the federal system of accountability.

(b) The legislature further recognizes that it is the state's responsibility to provide schools and districts with the tools and resources necessary to improve student achievement. These

tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, recognition, and, if necessary, state intervention.

(2) The legislature has already charged the state board of education to develop criteria to identify schools and districts that are successful, in need of assistance, and those where students persistently fail, as well as to identify a range of intervention strategies and a performance incentive system. The legislature finds that the state board of education should build on the work that the board has already begun in these areas. As development of these formulas, processes, and systems progresses, the legislature should monitor the progress.

Sec. 502. RCW 28A.305.130 and 2008 c 27 s 1 are each amended to read as follows:

The purpose of the state board of education is to provide advocacy and strategic oversight of public education; implement a standards-based accountability ~~((system))~~ framework that creates a unified system of increasing levels of support for schools in order 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) 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;

(2) Form committees as necessary to effectively and efficiently conduct the work of the board;

(3) Seek advice from the public and interested parties regarding the work of the board;

(4) For purposes of statewide accountability:

(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

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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 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~~

~~((f)) (d) 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;~~

(5) Accredite, 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 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;

(6) Articulate with the institutions of higher education, workforce representatives, and early learning policymakers and providers to coordinate and unify the work of the public school system;

(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 board may delegate to the executive director by resolution such duties as deemed necessary to efficiently carry on the business of the board including, but not limited to, the authority to employ necessary personnel and the authority to enter into, amend, and terminate contracts on behalf of the board. 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

(8) Adopt a seal that shall be kept in the office of the superintendent of public instruction.

NEW SECTION. Sec. 503. A new section is added to chapter 28A.305 RCW to read as follows:

(1) The state board of education shall continue to refine the development of an accountability framework that creates a unified system of support for challenged schools, that aligns with basic education, increases the level of support based upon the magnitude of need, and uses data for decisions.

(2) The state board of education shall develop an accountability index to identify schools and districts for recognition and for additional state support. The index shall be based on criteria that are fair, consistent, and transparent. Performance shall be measured using multiple outcomes and indicators including, but not limited to, graduation rates and results from statewide assessments. The index shall be developed in such a way as to be easily understood by both employees within the schools and districts, as well as parents and community members. It is the legislature's intent that the index provide feedback to schools and districts to self-assess their progress, and enable the identification of schools with exemplary student performance and those that need assistance to overcome challenges in order to achieve exemplary student performance. Once the accountability index has identified schools that need additional help, a more thorough analysis will be done to analyze specific conditions in the district including but not limited to the level of state resources a school or school district receives in support of the basic education system, achievement gaps for different groups of students, and community support.

(3) Based on the accountability index and in consultation with the superintendent of public instruction, the state board of education shall develop a proposal and timeline for implementation of a comprehensive system of voluntary support and assistance for schools and districts. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. Changes that have a fiscal impact on school districts, as identified by a fiscal analysis prepared by the office of the superintendent of public instruction, shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

(4)(a) The state board of education shall develop a proposal and implementation timeline for a more formalized comprehensive system improvement targeted to challenged schools and districts that have not demonstrated sufficient improvement through the voluntary system. The timeline must take into account and accommodate capacity limitations of the K-12 educational system. The proposal and timeline shall be submitted to the education committees of the legislature by December 1, 2009, and shall include recommended legislation and recommended resources to implement the system according to the timeline developed.

(b) The proposal shall outline a process for addressing performance challenges that will include the following features:

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(i) An academic performance audit using peer review teams of educators that considers school and community factors in addition to other factors in developing recommended specific corrective actions that should be undertaken to improve student learning; (ii) a requirement for the local school board plan to develop and be responsible for implementation of corrective action plan taking into account the audit findings, which plan must be approved by the state board of education at which time the plan becomes binding upon the school district to implement; and (iii) monitoring of local district progress by the office of the superintendent of public instruction. The proposal shall take effect only if formally authorized by the legislature through the omnibus appropriations act or other enacted legislation.

(5) In coordination with the superintendent of public instruction, the state board of education shall seek approval from the United States department of education for use of the accountability index and the state system of support, assistance, and intervention, to replace the federal accountability system under P.L. 107-110, the no child left behind act of 2001.

(6) The state board of education shall work with the education data center established within the office of financial management and the technical working group established in section 112 of this act to determine the feasibility of using the prototypical funding allocation model as not only a tool for allocating resources to schools and districts but also as a tool for schools and districts to report to the state legislature and the state board of education on how the state resources received are being used.

PART VI COMPENSATION

NEW SECTION. Sec. 601. A new section is added to chapter 43.41 RCW to read as follows:

(1) The legislature recognizes that providing students with the opportunity to access a world-class educational system depends on our continuing ability to provide students with access to world-class educators. The legislature also understands that continuing to attract and retain the highest quality educators will require increased investments. The legislature intends to enhance the current salary allocation model and recognizes that changes to the current model cannot be imposed without great deliberation and input from teachers, administrators, and classified employees. Therefore, it is the intent of the legislature to begin the process of developing an enhanced salary allocation model that is collaboratively designed to ensure the rationality of any conclusions regarding what constitutes adequate compensation.

(2) Beginning July 1, 2011, the office of financial management shall convene a technical working group to recommend the details of an enhanced salary allocation model that aligns state expectations for educator development and certification with the compensation system and establishes recommendations for a concurrent implementation schedule. In addition to any other details the technical working group deems necessary, the technical working group shall make recommendations on the following:

- (a) How to reduce the number of tiers within the existing salary allocation model;
- (b) How to account for labor market adjustments;
- (c) How to account for different geographic regions of the state where districts may encounter difficulty recruiting and retaining teachers;
- (d) The role of and types of bonuses available;
- (e) Ways to accomplish salary equalization over a set number of years; and
- (f) Initial fiscal estimates for implementing the recommendations including a recognition that staff on the existing salary allocation model would have the option to grandfather in permanently to the existing schedule.

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(3) As part of its work, the technical working group shall conduct or contract for a preliminary comparative labor market analysis of salaries and other compensation for school district employees to be conducted and shall include the results in any reports to the legislature. For the purposes of this subsection, "salaries and other compensation" includes average base salaries, average total salaries, average employee basic benefits, and retirement benefits.

(4) The analysis required under subsection (1) of this section must:

(a) Examine salaries and other compensation for teachers, other certificated instructional staff, principals, and other building-level certificated administrators, and the types of classified employees for whom salaries are allocated;

(b) Be calculated at a statewide level that identifies labor markets in Washington through the use of data from the United States bureau of the census and the bureau of labor statistics; and

(c) Include a comparison of salaries and other compensation to the appropriate labor market for at least the following subgroups of educators: Beginning teachers and types of educational staff associates.

(5) The working group shall include representatives of the department of personnel, the professional educator standards board, the office of the superintendent of public instruction, the Washington education association, the Washington association of school administrators, the association of Washington school principals, the Washington state school directors' association, the public school employees of Washington, and other interested stakeholders with appropriate expertise in compensation related matters. The working group may convene advisory subgroups on specific topics as necessary to assure participation and input from a broad array of diverse stakeholders.

(6) The working group shall be monitored and overseen by the legislature and the quality education council created in section 114 of this act. The working group shall make an initial report to the legislature by December 1, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

PART VII GENERAL PROVISIONS--PROGRAM OF BASIC EDUCATION

Sec. 701. RCW 28A.165.005 and 2004 c 20 s 1 are each amended to read as follows:

~~((The learning assistance program requirements in))~~ This chapter ~~((are))~~ is designed to: (1) Promote the use of assessment data when developing programs to assist underachieving students; and (2) guide school districts in providing the most effective and efficient practices when implementing ~~((programs))~~ supplemental instruction and services to assist underachieving students. ~~((Further, this chapter provides the means by which a school district becomes eligible for learning assistance program funds and the distribution of those funds.))~~

Sec. 702. RCW 28A.165.015 and 2004 c 20 s 2 are each amended to read as follows:

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

(1) "Approved program" means a program submitted to and approved by the office of the superintendent of public instruction and conducted pursuant to the plan that addresses the required elements as provided for in this chapter.

(2) "Basic skills areas" means reading, writing, and mathematics as well as readiness associated with these skills.

(3) "Participating student" means a student in kindergarten through grade ~~((eleven who scores below standard for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services. Beginning with the 2007-2008 school year, "participating student" means a student in kindergarten through grade))~~ twelve who scores below standard

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for his or her grade level on the statewide assessments and who is identified in the approved plan to receive services.

(4) "Statewide assessments" means one or more of the several basic skills assessments administered as part of the state's student assessment system, and assessments in the basic skills areas administered by local school districts.

(5) "Underachieving students" means students with the greatest academic deficits in basic skills as identified by the statewide assessments.

Sec. 703. RCW 28A.165.055 and 2008 c 321 s 10 are each amended to read as follows:

~~((+))~~ Each school district with an approved program is eligible for state funds provided for the learning assistance program. The funds shall be appropriated for the learning assistance program in accordance with RCW 28A.150.260 and the ~~((biennial))~~ omnibus appropriations act. The distribution formula is for school district allocation purposes only, but funds appropriated for the learning assistance program must be expended for the purposes of RCW 28A.165.005 through 28A.165.065. ~~((The distribution formula shall be based on one or more family income factors measuring economic need.~~

~~(2) In addition to the funds allocated to eligible school districts on the basis of family income factors, enhanced funds shall be allocated for school districts where more than twenty percent of students are eligible for and enrolled in the transitional bilingual instruction program under chapter 28A.180 RCW as provided in this subsection. The enhanced funding provided in this subsection shall take effect beginning in the 2008-09 school year.~~

~~(a) If, in the prior school year, a district's percent of October headcount student enrollment in grades kindergarten through twelve who are enrolled in the transitional bilingual instruction program, based on an average of the program headcount taken in October and May, exceeds twenty percent, twenty percent shall be subtracted from the district's percent transitional bilingual instruction program enrollment and the resulting percent shall be multiplied by the district's kindergarten through twelve annual average full-time equivalent enrollment for the prior school year.~~

~~(b) The number calculated under (a) of this subsection shall be the number of additional funded students for purposes of this subsection, to be multiplied by the per-funded student allocation rates specified in the omnibus appropriations act.~~

~~(c) School districts are only eligible for the enhanced funds under this subsection if their percentage of October headcount enrollment in grades kindergarten through twelve eligible for free or reduced-price lunch exceeded forty percent in the prior school year.)~~

Sec. 704. RCW 28A.180.010 and 1990 c 33 s 163 are each amended to read as follows:

RCW 28A.180.010 through 28A.180.080 shall be known and cited as "the transitional bilingual instruction act." The legislature finds that there are large numbers of children who come from homes where the primary language is other than English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW 28A.180.010 through 28A.180.080 to provide for the implementation of transitional bilingual education programs in the public schools~~((, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs))~~.

Sec. 705. RCW 28A.180.080 and 1995 c 335 s 601 are each amended to read as follows:

~~((The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs.))~~ Moneys appropriated by the legislature for the purposes of RCW 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the

sole purpose of operating an approved bilingual instruction program~~((, priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district. PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills)).~~

Sec. 706. RCW 28A.225.200 and 1990 c 33 s 234 are each amended to read as follows:

(1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education~~((, PROVIDED, That))~~. Notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to RCW ~~((28A.150.100;))~~ 28A.150.250 through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, ~~((28A.160.220))~~ 28A.300.035, and 28A.300.170~~((, and 28A.500.010))~~ shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW 28A.340.030 which exceeds two years in duration.

Sec. 707. RCW 28A.185.010 and 1984 c 278 s 12 are each amended to read as follows:

Pursuant to rules ~~((and regulations))~~ adopted by the superintendent of public instruction for the administration of this chapter, the superintendent of public instruction shall carry out a program for highly capable students. Such program may include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, providing statewide staff development, and allocating to school districts supplementary funds for additional costs of district programs, as provided by RCW ~~((28A.185.020))~~ 28A.150.260.

Sec. 708. RCW 28A.185.020 and 1990 c 33 s 168 are each amended to read as follows:

(1) The legislature finds that, for highly capable students, access to accelerated learning and enhanced instruction is access to a basic education. There are multiple definitions of highly capable, from intellectual to academic to artistic. The research literature strongly supports using multiple criteria to identify highly capable students, and therefore, the legislature does not intend to prescribe a single method. Instead, the legislature intends to allocate funding based on two and three hundred fourteen one-thousandths percent of each school district's population and authorize school districts to identify through the use of multiple, objective criteria those students most highly capable and eligible to receive accelerated learning and enhanced instruction in the program offered by the district. Access to accelerated learning and enhanced instruction through the program for highly capable students does not constitute an individual entitlement for any particular student.

(2) Supplementary funds (as may be) provided by the state for ((this program, in accordance with RCW 28A.150.370;)) the program for highly capable students under RCW 28A.150.260 shall be categorical funding ((on an excess cost basis based upon a per student amount not to exceed three percent of any district's full-time equivalent enrollment)) to provide services to highly

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capable students as determined by a school district under RCW 28A.185.030.

NEW SECTION. Sec. 709. The following acts or parts of acts are each repealed:

(1) RCW 28A.150.030 (School day) and 1971 ex.s. c 161 s 1 & 1969 ex.s. c 223 s 28A.01.010;

(2) RCW 28A.150.060 (Certificated employee) and 2005 c 497 s 212, 1990 c 33 s 102, 1977 ex.s. c 359 s 17, 1975 1st ex.s. c 288 s 21, & 1973 1st ex.s. c 105 s 1;

(3) RCW 28A.150.100 (Basic education certificated instructional staff--Definition--Ratio to students) and 1990 c 33 s 103 & 1987 1st ex.s. c 2 s 203;

(4) RCW 28A.150.040 (School year--Beginning--End) and 1990 c 33 s 101, 1982 c 158 s 5, 1977 ex.s. c 286 s 1, 1975-'76 2nd ex.s. c 118 s 22, & 1969 ex.s. c 223 s 28A.01.020;

(5) RCW 28A.150.370 (Additional programs for which legislative appropriations must or may be made) and 1995 c 335 s 102, 1995 c 77 s 5, 1990 c 33 s 114, 1982 1st ex.s. c 24 s 1, & 1977 ex.s. c 359 s 7; and

(6) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

PART VIII MISCELLANEOUS PROVISIONS

NEW SECTION. Sec. 801. Part headings used in this act are not any part of the law.

NEW SECTION. Sec. 802. Sections 1, 102, and 109 of this act are each added to chapter 28A.150 RCW.

NEW SECTION. Sec. 803. Section 114 of this act constitutes a new chapter in Title 28A RCW.

NEW SECTION. Sec. 804. Sections 101 through 110 and 701 through 709 of this act take effect September 1, 2011.

NEW SECTION. Sec. 805. Sections 304 through 311 of this act take effect September 1, 2013.

NEW SECTION. Sec. 806. Section 112 of 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.

NEW SECTION. Sec. 807. 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."

MOTION

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

Beginning on page 3, line 3 of the amendment, strike all of section 101

Re-number the sections consecutively and correct any internal references accordingly.

Beginning on page 6, line 21 of the amendment, strike all of section 104

Re-number the remaining sections consecutively and correct any internal references accordingly.

Beginning on page 16, line 27 of the amendment, strike all of section 107

Re-number the sections consecutively and correct any internal references accordingly.

On page 27, beginning on line 28 of the amendment, strike all of subsection (1)

Re-number the remaining subsections consecutively.

On page 28, line 3 of the amendment, after "develop the" strike "basic education"

Beginning on page 38, line 20 of the amendment, strike all of sections 303 through 309

Re-number the remaining sections consecutively and correct any internal references accordingly.

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Beginning on page 59, line 6 of the amendment, strike all of sections 701 through 708

Re-number the remaining section consecutively and correct any internal references accordingly.

On page 64, line 15 of the amendment, strike "701 through"

On page 64, line 17 of the amendment, strike "304 through" and insert "310 and"

On page 65, line 2 of the title amendment, after "RCW", strike all material through "28A.185.020;" on line 7 and insert "28A.150.210, 28A.150.250, 28A.150.260, 228A.150.390, 28A.150.380, 28A.230.090, 43.41.400, 28A.415.360, and 28A.305.130;"

Senators King and Schoesler spoke in favor of adoption of the amendment to the striking amendment.

Senator McAuliffe spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 3, line 3 to the striking amendment to Engrossed Substitute House Bill No. 2261.

The motion by Senator King failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

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

Beginning on page 10, line 18 of the amendment, strike all of section 106 and insert the following:

"NEW SECTION. Sec. 106. (1) The office of financial management, with assistance and support from the office of the superintendent of public instruction, shall convene a technical working group to recommend the details of funding formulas based on prototypical schools and an implementation schedule and submit recommendations to the legislature by December 1, 2009.

(2) The funding formulas shall be based on minimum staff and nonstaff costs deemed necessary to support instruction and operations in prototypical schools serving high, middle, and elementary school students. The use of prototypical schools for the distribution formula does not constitute legislative intent that schools should be operated or structured in a similar fashion as the prototypes. Prototypical schools illustrate the level of resources needed to operate a school of a particular size with particular types and grade levels of students using commonly understood terms and inputs, such as class size, hours of instruction, and various categories of school staff. It is the intent that the funding allocations to school districts be adjusted from the school prototypes based on the actual number of annual average full-time equivalent students in each grade level at each school in the district and not based on the grade-level configuration of the school to the extent that data is available. The allocations shall be further adjusted from the school prototypes with minimum allocations for small schools and to reflect other factors identified in the omnibus appropriations act."

On page 18, beginning on line 10 of the amendment, after "28A.150.260(8)" strike all material through "(8)" on line 11

On page 18, line 28 of the amendment, after "28A.150.260" strike all material through "(8)"

On page 65, line 3 of the title amendment, after "28A.150.250," strike "28A.150.260,"

Senator King spoke in favor of adoption of the amendment to the striking amendment.

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Senator Oemig spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 10, line 18 to the striking amendment Engrossed Substitute House Bill No. 2261.

The motion by Senator King failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

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

On page 24, at the beginning of line 9 of the amendment, strike "and"

On page 24, line 13 of the amendment, after "consideration" insert "; and"

(d) Review and analyze all of the current state funds provided for K-12 education, including the allocations to the office of the superintendent of public instruction and the educational service districts, for the purposes of identifying efficiencies and areas where state funds could be redirected to be more effective in improving student learning"

Renumber the remaining subsections consecutively.

Senator King spoke in favor of adoption of the amendment to the striking amendment.

Senator Oemig spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senator King on page 24, line 9 to the striking amendment to Engrossed Substitute House Bill No. 2261.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator King to the striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and King to the striking amendment be adopted.

On page 22, beginning on line 26 of the amendment, after "review" strike all material through "act" on line 27

On page 24, beginning on line 11 of the amendment, after "legislature" strike all material through "act" on line 12

On page 24, beginning on line 26 of the amendment, after "legislature" strike all material through "act" on line 27

Beginning on page 25, line 27 of the amendment, strike all of section 114

Renumber the remaining section consecutively.

On page 28, beginning on line 28 of the amendment, strike all of subsection (4)

On page 38, beginning on line 17 of the amendment, after "legislature" strike all material through "act" on line 18

On page 58, beginning on line 37 of the amendment, after "legislature" strike all material through "act" on line 38

On page 64, beginning on line 13 of the amendment, strike all of section 803

Renumber the remaining sections consecutively.

On page 65, line 13 of the title amendment, after "28A.305 RCW;" strike "adding a new chapter to Title 28A RCW;"

Senator Holmquist spoke in favor of adoption of the amendment to the striking amendment.

Senator Jarrett spoke against adoption of the amendment to the striking amendment.

POINT OF INQUIRY

Senator Holmquist: "Would Senator McAuliffe yield to a question? Thank you Madam Chair. I was just wondering, I see that in this section where we're creating this quality education council that there are costs in regards to travel reimbursement and expenses and you can see that right in section 114, subsection 7, etc. So these are going to be additional cost to the tax payers to form this new layer of bureaucracy. So, my question to you Madam Chair; 'How much is this going to cost?' We just got this striking amendment earlier today. We haven't had time to get a fiscal note. Do you have any idea how much this is going to cost for the tax payers?"

Senator McAuliffe: "Yes. This is within existing funds. The people who are serving on this task force are currently funded within their agencies to do the work. We have legislators that are serving that will be serving with much of their own time and very little travel time. So, there is money in our final budgets to fund the work groups, to fund this bill but for this quality education council there is no funding at this point because there is no need."

Senator Holmquist: "Just reading from subsection 7, it says right there that they will be reimbursed for travel expenses in accordance with RCW. I mean this is the same plate language we have for every task force. It costs money so I don't think that is an accurate answer. I do appreciate you doing your best but this is going to cost money and it's right there in the bill. Thank you."

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and King on page 22, line 26 to the striking amendment to Engrossed Substitute House Bill No. 2261.

The motion by Senator Holmquist failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Schoesler moved that the following amendment by Senators Schoesler and Holmquist to the striking amendment be adopted.

On page 28, after line 32 of the amendment, insert the following:

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"**Sec. 116.** RCW 28A.500.010 and 1999 c 317 s 1 are each amended to read as follows:

~~((Commencing with calendar year 2000;))~~ In addition to a school district's other general fund allocations, each eligible district shall be provided local effort assistance funds. The purpose of these funds is to mitigate the effect that above average property tax rates might have on the ability of a school district to raise local revenues to supplement the state's basic program of education. These funds serve to equalize the property tax rates that individual taxpayers would pay for such levies and to provide tax relief to taxpayers in high tax rate school districts. Such funds are ~~((not))~~ part of the district's basic education allocation."

Beginning on page 37, line 3 of the amendment, strike all of sections 301 and 302

Renumber the remaining sections consecutively and correct any internal references accordingly.

Senator Schoesler spoke in favor of adoption of the amendment to the striking amendment.

Senator McAuliffe spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senators Schoesler and Holmquist on page 28, after line 32 to the striking amendment to Engrossed Substitute House Bill No. 2261.

The motion by Senator Schoesler failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

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

On page 61, line 28, after "program", strike all material through "English." On line 35 and insert, "; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district: PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English."

Senators Zarelli, Roach, Schoesler, Pflug, Becker, Benton, Stevens, Carrell and Honeyford spoke in favor of adoption of the amendment to the striking amendment.

Senators McAuliffe, Oemig, Jarrett and Kauffman spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Zarelli on page 61, line 28 to the striking amendment Engrossed Substitute House Bill No. 2261.

The motion by Senator Zarelli failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

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

On page 63, after line 24 of the amendment, insert the following:

"**NEW SECTION. Sec. 709.** A new section is added to chapter 28A.185 RCW to read as follows:

To the extent necessary, funds shall be made available for safety net awards for districts with demonstrated needs for funding for a highly capable program beyond the amounts provided through the highly capable funding formula under RCW 28A.150.260 and 28A.185.020. Safety net funds shall be awarded by the state safety net oversight committee subject to the conditions and limitations in subsections (1) through (4) of this section.

(1) The committee shall consider additional funds for districts that can convincingly demonstrate that all legitimate expenditures for the highly capable program exceed all available revenues from state funding formulas. In the determination of need, the committee shall also consider additional available revenues from federal sources. Differences in program costs attributable to district philosophy, service delivery choice, or accounting practices are not a legitimate basis for safety net awards. In the determination of need, the committee shall require that districts demonstrate that they are maximizing their eligibility for all state and federal revenues related to services for students in the highly capable program.

(2) The superintendent of public instruction may adopt such rules and procedures as are necessary to administer the safety net award process for the highly capable program, including determining the maximum allowable indirect cost for calculating safety net eligibility.

(3) The superintendent of public instruction shall provide technical assistance to school districts in preparing and submitting safety net applications for highly capable programs.

(4) The safety net committee for highly capable programs shall be composed of at least the following members:

(a) One staff member from the office of the superintendent of public instruction;

(b) Staff of the office of the state auditor, who shall be nonvoting members of the committee; and

(c) One or more representatives from school districts or educational service districts knowledgeable of highly capable programs and funding."

Renumber the remaining section consecutively.

On page 65, line 13 of the title amendment, after "28A.305 RCW;" insert "adding a new section to chapter 28A.185 RCW;"

Senators Roach and Oemig spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Roach on page 63, after line 24 to the striking amendment to Engrossed Substitute House Bill No. 2261.

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

MOTION

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

On page 7, beginning on line 5 of the amendment, after "school" strike "year:"

(a) For" and insert "year: For"

On page 7, beginning on line 22 of the amendment, strike all of subsection (b)

On page 8, beginning on line 23 of the amendment, after "kindergarten" strike all material through "However," on line 25, and insert ": PROVIDED, That"

On page 9, beginning on line 20 of the amendment, after "enrolled" strike all material through "~~28A.150.220~~")" on line 23, and insert ", based upon one full school year of one hundred

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eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW 28A.150.220"

Beginning on page 16, line 27 of the amendment, strike all of section 107 and insert the following:

"**NEW SECTION. Sec. 107.** (1) The legislature finds that a critical factor in a child's success in school is that the child begin school ready to learn. The legislature further finds that due to a variety of factors, disadvantaged children are at risk of not being sufficiently ready to begin school. Therefore, the legislature intends to review all-day kindergarten and early learning programs to determine whether these programs provide evidence that they are beneficial for at-risk students and whether the programs should be included in the definition of basic education.

(2) By December 1, 2010, the state board of education shall report to the legislative education and fiscal committees on the following:

(a) A review of the school and student performance in school districts that have state-funded all-day kindergarten programs, whether there is evidence that the programs have improved student's academic achievement, and whether all-day kindergarten should be included in the definition of basic education;

(b) A review of early childhood programs for disadvantaged children who are at risk of not being ready to be successful in school, whether there is evidence that the programs have improved student readiness and academic achievement, whether early learning should be included in the definition of basic education; and

(c) Recommendations for a targeted assistance program for students who are ages birth to five who are at risk of being unsuccessful academically in school."

Beginning on page 27, line 28 of the amendment, strike all of section 115

On page 65, line 3 of the title amendment, after "28A.150.260," strike "28A.150.315,"

Senator Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator McDermott spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 7, line 5 to the striking amendment to Engrossed Substitute House Bill No. 2261.

The motion by Senator Pflug failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

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

On page 22, line 26 of the amendment, after "the" strike "quality education council" and insert "steering committee"

On page 24, at the beginning of line 12 of the amendment, strike "quality education council" and insert "steering committee"

On page 24, line 26 of the amendment, after "the" strike "quality education council" and insert "steering committee"

Beginning on page 25, line 27 of the amendment, strike all of section 114 and insert the following:

"**NEW SECTION. Sec. 114.** A new section is added to chapter 28A.150 RCW to read as follows:

(1) The basic education steering committee is established to monitor and oversee implementation of the new definition of basic education. The steering committee shall be composed of the following members:

(a) Four members of the house of representatives, with two members representing each of the major caucuses and appointed by the speaker of the house of representatives;

(b) Four members of the senate, with two members representing each of the major caucuses and appointed by the president of the senate; and

(c) One representative each from the office of the governor, office of the superintendent of public instruction, state board of education, workforce training and education coordinating board, department of early learning, and the office of financial management.

(2) The chair or co-chairs of the steering committee shall be selected by the members of the committee.

(3) The steering committee shall:

(a) Develop the details of the funding formulas under RCW 28A.150.260;

(b) Recommend an implementation schedule for phasing-in any increased program or instructional requirements concurrently with increases in funding for adoption by the legislature;

(c) Examine possible sources of revenue to support increases in funding allocations and present options to the legislature for consideration;

(d) Recommend options for a compensation system that provides support for effective teaching and recruitment and retention of high quality staff, including:

(i) A plan to equalize school employee salaries across the state;

(ii) Cost-of-living adjustments;

(iii) A state salary schedule for superintendents that is capped at a maximum salary and limits the amount of local funds that can be used for the salaries;

(iv) Individual or building-based bonuses based on employee performance. The bonus criteria may consider measures of improvement in student achievement, attendance, and dropout and graduation rates, and other factors; and

(v) Merit pools to balance longevity with productivity and value added.

(e) Develop options for a new system of supplemental school funding through local school levies and local effort assistance and recommend a phase-in plan that reduces reliance on local school levies concurrently with increased state funding and assures that no district suffers a decrease in overall funding from one school year to the next due to implementation of the new systems.

(4) The steering committee may request updates and progress reports from the office of the superintendent of public instruction, the state board of education, the professional educator standards board, and the department of early learning on the implementation of this act. The steering committee shall also monitor and request updates and progress reports from groups or agencies developing comprehensive education data systems.

(5) The steering committee shall submit an initial report to the governor and the legislature by January 1, 2010, detailing its recommendations, including recommendations for resolving issues or decisions requiring legislative action during the 2010 legislative session, and recommendations for any funding necessary to continue development and implementation of this act. The initial report from the steering committee shall also contain a recommended schedule for the concurrent phase-in of

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any changes in the instructional program of basic education and the implementation of the funding formulas and allocations to support the instructional program of basic education. The objective of the schedule is to assure that increases in funding allocations occur concurrently with increases in program and instructional requirements.

(6) The steering committee shall submit subsequent reports to the governor and the legislature by November 15, 2010, and annually thereafter, ending November 15, 2016.

(7) Staff support for the basic education steering committee shall be provided by the state agencies with representatives on the committee, the senate committee services, and the office of program research of the house of representatives. Legislative members of the steering committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120. If funding is specifically provided, the committee may contract for services to complete the tasks assigned under this section.

(8) This section expires June 30, 2017."

On page 28, line 29 of the amendment, after "by the" strike "quality education council" and insert "steering committee"

On page 38, line 17 of the amendment, after "and by the" strike "quality education council" and insert "steering committee"

On page 58, line 37 of the amendment, after "and the" strike "quality education council" and insert "steering committee"

On page 64, beginning on line 13 of the amendment, strike all of section 803

Renumber the remaining sections consecutively.

On page 65, line 13 of the title amendment, after "28A.305 RCW;" strike "adding a new chapter to Title 28A RCW;"

On page 65, line 15 of the title amendment, after "dates;" insert "providing an expiration date;"

Senator Pflug spoke in favor of adoption of the amendment to the striking amendment.

Senator Jarrett spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug on page 22, line 26 to the striking amendment to Engrossed Substitute House Bill No. 2261.

The motion by Senator Pflug failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist and King to the striking amendment be adopted.

On page 64, after line 22 of the amendment, insert the following:

"NEW SECTION. Sec. 807. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void."

Renumber the remaining section consecutively.

Senators Holmquist, Schoesler, Pflug and Hewitt spoke in favor of adoption of the amendment to the striking amendment.

Senators McAuliffe and Jarrett spoke against adoption of the amendment to the striking amendment.

Senator Schoesler demanded a roll call.

The President declared that one-sixth of the members supported the demand and the demand was sustained.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist and King on page 64, after line 22 to the striking amendment to Engrossed Substitute House Bill No. 2261.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senators Holmquist and King to the striking amendment and the amendment was not adopted by the following vote: Yeas, 19; Nays, 30; Absent, 0; Excused, 0.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

MOTION

Senator Eide moved to table the amendment by Senator Benton.

A division was called.

The President declared the question before the Senate to be the motion by Senator Eide to table the amendment.

The motion by Senator Eide carried on a rising vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator McAuliffe and others as amended to Engrossed Substitute House Bill No. 2261.

The motion by Senator McAuliffe carried and the 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 "education;" strike the remainder of the title and insert "amending RCW 28A.150.200, 28A.150.210, 28A.150.220, 28A.150.250, 28A.150.260, 28A.150.315, 28A.150.390, 28A.150.380, 28A.230.090, 43.41.400, 28A.195.010, 28A.160.150, 28A.160.160, 28A.160.170, 28A.160.180, 28A.160.190, 28A.415.360, 28A.305.130, 28A.165.005, 28A.165.015, 28A.165.055, 28A.180.010, 28A.180.080, 28A.225.200, 28A.185.010, and 28A.185.020; adding new sections to chapter 28A.150 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.655 RCW; adding new sections to chapter 43.41 RCW; adding a new section to chapter 28A.500 RCW; adding new sections to chapter 28A.160 RCW; adding a new section to chapter 28A.410 RCW; adding a new section to chapter 28A.305 RCW; adding a new chapter to Title 28A RCW; creating new sections; repealing RCW 28A.150.030, 28A.150.060, 28A.150.100, 28A.150.040, 28A.150.370, and 28A.155.180; providing effective dates; and declaring an emergency."

On page 65, line 4 of the title amendment, after "28A.230.090," insert "28A.500.010,"

On page 65, beginning on line 10 of the title amendment, after "43.41 RCW;" strike all material through "28A.500 RCW;" on line 11

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MOTION

On motion of Senator McAuliffe, the rules were suspended, Engrossed Substitute House Bill No. 2261 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 Benton spoke against passage of the bill.

POINT OF ORDER

Senator Marr: "Mr. President, is the speaker speaking to the bill?"

REPLY BY THE PRESIDENT

President Owen: "Senator Benton."

Senators McAuliffe, Haugen, Franklin, Kohl-Welles, Shin, Jarrett and Ranker spoke in favor of passage of the bill.

Senators Schoesler, Marr, Becker, Jacobsen, King, Pflug, Swecker and Brandland spoke against passage of the bill.

Senator Sheldon spoke on final passage of the bill.

MOTION

On motion of Senator Brandland, Senators Delvin and Roach were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 2261 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2261 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 26; Nays, 23; Absent, 0; Excused, 0.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jarrett, Kastama, Keiser, Kline, Kohl-Welles, McAuliffe, McDermott, Murray, Oemig, Prentice, Ranker, Regala, Roach, Rockefeller, Shin and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, Jacobsen, Kauffman, Kilmer, King, Marr, McCaslin, Morton, Parlette, Pflug, Pridemore, Schoesler, Sheldon, Stevens, Swecker and Zarelli

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2261 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, Engrossed Substitute House Bill No. 2261 was immediately transmitted to the House of Representatives.

PERSONAL PRIVILEGE

Senator Brown: "Thank you Mr. President. I'd like to point out that an incredible amount of work went into the legislation that just passed including the members of the Basic Education Task Force that served all during the interim chaired by Dan Grimm and including former Superintendent Bergeson, several members of the public including a couple of great

superintendents and several members of the legislature. Roxanne Leib of the Institute for Public Policy and amazing staff work as well from both the House and the Senate, Heather and Mary, thank you so much for the incredible work you did. There was quite an amazing group of bipartisan House and Senate members that came together and met frequently outside of the task force to hash through the details of how to make progress. This is like any piece of major legislation. There were steps forward and steps backward and tons of frustration also through the legislative process but amazing amount of work went into collaboration and pulling it back together again. In particular there were members of our caucus who, not even appointed to the task force, and yet showed up almost every single time. I think more than I did. Senator Oemig and Senator McAuliffe were not members of the task force and yet they attended religiously and faithfully and put a lot of work into this. So, Mr. President, I just wanted to acknowledge, as we all know with any piece of legislation, incredible work on part of the public and staff and members and a special word for me to some folks back home in Spokane who inspired me every step of the way and, of course that is the Spokane Library Moms, Lisa, Susan and Denett have done an amazing job and made national coverage with the work that they've done to keep librarians and important work of school libraries on the map. So thanks to everyone who participated in this effort."

MOTION

At 3:48 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 4:36 p.m. by President Owen.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 1555, by House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chase, Green, Dickerson, Rolfes, Goodman, Campbell, Morrell, Cody, Simpson, Ormsby, Van De Wege, Seaquist, Appleton, Miloscia, Hunt, Blake, Williams, Hudgins, Kenney, Sullivan, Priest, Eddy and Wood)

Addressing the recommendations of the joint legislative task force on the underground economy in the construction industry.

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:

"NEW SECTION. Sec. 1. A new section is added to chapter 18.27 RCW to read as follows:

A contractor must maintain and have available for inspection by the department a list of all direct subcontractors and a copy of their certificate of registration.

NEW SECTION. Sec. 2. A new section is added to chapter 35.21 RCW to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The

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department of licensing shall conduct the verification for cities that participate in the master license system.

NEW SECTION. Sec. 3. A new section is added to chapter 35A.21 RCW to read as follows:

A city that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries. The department of licensing shall conduct the verification for cities that participate in the master license system.

NEW SECTION. Sec. 4. A new section is added to chapter 36.01 RCW to read as follows:

A county that issues a business license to a person required to be registered under chapter 18.27 RCW may verify that the person is registered under chapter 18.27 RCW and report violations to the department of labor and industries.

Sec. 5. RCW 60.28.011 and 2007 c 494 s 504 and 2007 c 218 s 92 are each reenacted and amended to read as follows:

(1) Public improvement contracts shall provide, and public bodies shall reserve, a contract retainage not to exceed five percent of the moneys earned by the contractor as a trust fund for the protection and payment of: (a) The claims of any person arising under the contract; and (b) the state with respect to taxes imposed pursuant to Titles 50, 51, and 82 RCW which may be due from such contractor.

(2) Every person performing labor or furnishing supplies toward the completion of a public improvement contract shall have a lien upon moneys reserved by a public body under the provisions of a public improvement contract. However, the notice of the lien of the claimant shall be given within forty-five days of completion of the contract work, and in the manner provided in RCW 39.08.030.

(3) The contractor at any time may request the contract retainage be reduced to one hundred percent of the value of the work remaining on the project.

(a) After completion of all contract work other than landscaping, the contractor may request that the public body release and pay in full the amounts retained during the performance of the contract, and sixty days thereafter the public body must release and pay in full the amounts retained (other than continuing retention of five percent of the moneys earned for landscaping) subject to the provisions of chapters 39.12 and 60.28 RCW.

(b) Sixty days after completion of all contract work the public body must release and pay in full the amounts retained during the performance of the contract subject to the provisions of chapters 39.12 and 60.28 RCW.

(4) The moneys reserved by a public body under the provisions of a public improvement contract, at the option of the contractor, shall be:

(a) Retained in a fund by the public body;

(b) Deposited by the public body in an interest bearing account in a bank, mutual savings bank, or savings and loan association. Interest on moneys reserved by a public body under the provision of a public improvement contract shall be paid to the contractor;

(c) Placed in escrow with a bank or trust company by the public body. When the moneys reserved are placed in escrow, the public body shall issue a check representing the sum of the moneys reserved payable to the bank or trust company and the contractor jointly. This check shall be converted into bonds and securities chosen by the contractor and approved by the public body and the bonds and securities shall be held in escrow. Interest on the bonds and securities shall be paid to the contractor as the interest accrues.

(5) The contractor or subcontractor may withhold payment of not more than five percent from the moneys earned by any subcontractor or sub-subcontractor or supplier contracted with by the contractor to provide labor, materials, or equipment to the public project. Whenever the contractor or subcontractor reserves funds earned by a subcontractor or sub-subcontractor or supplier, the contractor or subcontractor shall pay interest to the subcontractor or sub-subcontractor or supplier at a rate equal to that received by the contractor or subcontractor from reserved funds.

(6) A contractor may submit a bond for all or any portion of the contract retainage in a form acceptable to the public body and from a bonding company meeting standards established by the public body. The public body shall accept a bond meeting these requirements unless the public body can demonstrate good cause for refusing to accept it. This bond and any proceeds therefrom are subject to all claims and liens and in the same manner and priority as set forth for retained percentages in this chapter. The public body shall release the bonded portion of the retained funds to the contractor within thirty days of accepting the bond from the contractor. Whenever a public body accepts a bond in lieu of retained funds from a contractor, the contractor shall accept like bonds from any subcontractors or suppliers from which the contractor has retained funds. The contractor shall then release the funds retained from the subcontractor or supplier to the subcontractor or supplier within thirty days of accepting the bond from the subcontractor or supplier.

(7) If the public body administering a contract, after a substantial portion of the work has been completed, finds that an unreasonable delay will occur in the completion of the remaining portion of the contract for any reason not the result of a breach thereof, it may, if the contractor agrees, delete from the contract the remaining work and accept as final the improvement at the stage of completion then attained and make payment in proportion to the amount of the work accomplished and in this case any amounts retained and accumulated under this section shall be held for a period of sixty days following the completion. In the event that the work is terminated before final completion as provided in this section, the public body may thereafter enter into a new contract with the same contractor to perform the remaining work or improvement for an amount equal to or less than the cost of the remaining work as was provided for in the original contract without advertisement or bid. The provisions of this chapter are exclusive and shall supersede all provisions and regulations in conflict herewith.

(8) Whenever the department of transportation has contracted for the construction of two or more ferry vessels, sixty days after completion of all contract work on each ferry vessel, the department must release and pay in full the amounts retained in connection with the construction of the vessel subject to the provisions of RCW 60.28.020 and chapter 39.12 RCW. However, the department of transportation may at its discretion condition the release of funds retained in connection with the completed ferry upon the contractor delivering a good and sufficient bond with two or more sureties, or with a surety company, in the amount of the retained funds to be released to the contractor, conditioned that no taxes shall be certified or claims filed for work on the ferry after a period of sixty days following completion of the ferry; and if taxes are certified or claims filed, recovery may be had on the bond by the department of revenue, the employment security department, the department of labor and industries, and the material suppliers and laborers filing claims.

(9) Except as provided in subsection (1) of this section, reservation by a public body for any purpose from the moneys

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earned by a contractor by fulfilling its responsibilities under public improvement contracts is prohibited.

(10) Contracts on projects funded in whole or in part by farmers home administration and subject to farmers home administration regulations are not subject to subsections (1) through (9) of this section.

(11) This subsection applies only to a public body that has contracted for the construction of a facility using the general contractor/construction manager procedure, as defined under RCW 39.10.210. If the work performed by a subcontractor on the project has been completed within the first half of the time provided in the general contractor/construction manager contract for completing the work, the public body may accept the completion of the subcontract. The public body must give public notice of this acceptance. After a forty-five day period for giving notice of liens, and compliance with the retainage release procedures in RCW 60.28.021, the public body may release that portion of the retained funds associated with the subcontract. Claims against the retained funds after the forty-five day period are not valid.

(12) Unless the context clearly requires otherwise, the definitions in this subsection apply throughout this section.

(a) "Contract retainage" means an amount reserved by a public body from the moneys earned by a person under a public improvement contract.

(b) "Person" means a person or persons, mechanic, subcontractor, or materialperson who performs labor or provides materials for a public improvement contract, and any other person who supplies the person with provisions or supplies for the carrying on of a public improvement contract.

(c) "Public body" means the state, or a county, city, town, district, board, or other public body.

(d) "Public improvement contract" means a contract for public improvements or work, other than for professional services, or a work order as defined in RCW 39.10.210.

Sec. 6. RCW 60.28.021 and 2007 c 218 s 94 are each amended to read as follows:

After the expiration of the forty-five day period for giving notice of lien provided in RCW 60.28.011(2), and after receipt of the ~~((department of revenue's))~~ certificates of the department of revenue, the employment security department, and the department of labor and industries, and the public body is satisfied that the taxes certified as due or to become due by the department of revenue, the employment security department, and the department of labor and industries are discharged, and the claims of material suppliers and laborers who have filed their claims, together with a sum sufficient to defray the cost of foreclosing the liens of such claims, and to pay attorneys' fees, have been paid, the public body may withhold from the remaining retained amounts for claims the public body may have against the contractor and shall pay the balance, if any, to the contractor the fund retained by it or release to the contractor the securities and bonds held in escrow.

If such taxes have not been discharged or the claims, expenses, and fees have not been paid, the public body shall either retain in its fund, or in an interest bearing account, or retain in escrow, at the option of the contractor, an amount equal to such unpaid taxes and unpaid claims together with a sum sufficient to defray the costs and attorney fees incurred in foreclosing the lien of such claims, and shall pay, or release from escrow, the remainder to the contractor.

Sec. 7. RCW 60.28.040 and 1985 c 80 s 1 are each amended to read as follows:

(1) Subject to subsection (5) of this section, the amount of all taxes, increases, and penalties due or to become due under

Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract ~~((, except that)).~~

(2) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, from a contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more, the amount of all other taxes, increases, and penalties under Title 82 RCW, due and owing from the contractor, shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(3) Subject to subsection (5) of this section, after payment of all taxes, increases, and penalties due or to become due under Title 82 RCW, the amount of all taxes, increases, and penalties due or to become due under Titles 50 and 51 RCW from the contractor or the contractor's successors or assignees with respect to a public improvement contract wherein the contract price is twenty thousand dollars or more shall be a lien prior to all other liens upon the amount of the retained percentage withheld by the disbursing officer under such contract.

(4) Subject to subsection (5) of this section, the amount of all other taxes, increases, and penalties due and owing from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.

(5) The employees of a contractor or the contractor's successors or assignees who have not been paid the prevailing wage under such a public improvement contract shall have a first priority lien against the bond or retainage prior to all other liens. ((The amount of all other taxes, increases and penalties due and owing from the contractor shall be a lien upon the balance of such retained percentage remaining in the possession of the disbursing officer after all other statutory lien claims have been paid.))

Sec. 8. RCW 60.28.051 and 2007 c 210 s 2 are each amended to read as follows:

Upon completion of a contract, the state, county, or other municipal officer charged with the duty of disbursing or authorizing disbursement or payment of such contracts shall forthwith notify the department of revenue, the employment security department, and the department of labor and industries of the completion of contracts over thirty-five thousand dollars. Such officer shall not make any payment from the retained percentage fund or release any retained percentage escrow account to any person, until he or she has received from the department of revenue ~~((a)),~~ the employment security department, and the department of labor and industries certificates that all taxes, increases, and penalties due from the contractor, and all taxes due and to become due with respect to such contract have been paid in full or that they are, in ~~((the))~~ each department's opinion, readily collectible without recourse to the state's lien on the retained percentage.

Sec. 9. RCW 60.28.060 and 1967 ex.s. c 26 s 25 are each amended to read as follows:

If within thirty days after receipt of notice by the department of revenue, the employment security department, and the department of labor and industries of the completion of the contract, the amount of all taxes, increases and penalties due from the contractor or any of his successors or assignees or to become due with respect to such contract have not been paid,

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the department of revenue, the employment security department, and the department of labor and industries may certify to the disbursing officer the amount of all taxes, increases and penalties due from the contractor, together with the amount of all taxes due and to become due with respect to the contract and may request payment thereof ~~((to the department of revenue))~~ in accordance with the priority provided by this chapter. The disbursing officer shall within ten days after receipt of such certificate and request pay to the department of revenue, the employment security department, and the department of labor and industries the amount of all taxes, increases and penalties certified to be due or to become due ~~((with respect to the particular contract, and, after payment of))~~ and all claims which by statute are a lien upon the retained percentage withheld by the disbursing officer ~~((, shall pay to the department of revenue the balance, if any, or so much thereof as shall be necessary to satisfy the claim of the department of revenue for the balance of all taxes, increases or penalties shown to be due by the certificate of the department of revenue))~~ in accordance with the priority provided by this chapter. If the contractor owes no taxes imposed pursuant to Titles 50, 51, and 82 RCW, the department of revenue, the employment security department, and the department of labor and industries shall so certify to the disbursing officer.

NEW SECTION. Sec. 10. A new section is added to chapter 51.04 RCW to read as follows:

The department shall conduct education and outreach to employers on workers' compensation requirements and premium responsibilities, including independent contractor issues. The department shall work with new employers on an individual basis and also establish mass education campaigns.

Sec. 11. RCW 50.12.070 and 2008 c 120 s 7 are each amended to read as follows:

(1)(a) Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his or her authorized representatives at any reasonable time and as often as may be necessary. The commissioner may require from any employing unit any sworn or unsworn reports with respect to persons employed by it, which he or she deems necessary for the effective administration of this title.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and compensation paid to the person or entity performing the work. In addition to the penalty in subsection (3) of this section, failure to obtain or maintain the record is subject to RCW 39.06.010 ((and to a penalty determined by the commissioner, but not to exceed two hundred fifty dollars, to be collected as provided in RCW 50.24.120)).

(2)(a) Each employer shall register with the department and obtain an employment security account number. Registration must include the names and social security numbers of the owners, partners, members, or corporate officers of the business, as well as their mailing addresses and telephone numbers and other information the commissioner may by rule prescribe. Registration of corporations must also include the percentage of stock ownership for each corporate officer, delineated by zero percent, less than ten percent, or ten percent or more. Any changes in the owners, partners, members, or corporate officers of the business, and changes in percentage of ownership of the outstanding shares of stock of the corporation, must be reported to the department at intervals prescribed by the commissioner under (b) of this subsection.

(b) Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the full names and social security numbers of all such workers, and the total hours worked by each worker and such other information as the commissioner may by regulation prescribe.

(c) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker worked, such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

(i) A contribution paying employer who fails to report the number of hours worked will have its experience rating account charged for all benefits paid that are based on hours computed under this subsection; and

(ii) An employer who reimburses the trust fund for benefits paid to workers and fails to report the number of hours worked shall reimburse the trust fund for all benefits paid that are based on hours computed under this subsection.

(3) Any employer who fails to keep and preserve records required by this section shall be subject to a penalty determined by the commissioner but not to exceed two hundred fifty dollars or two hundred percent of the quarterly tax for each offense, whichever is greater.

Sec. 12. 2008 c 120 s 10 (uncodified) is amended to read as follows:

(1) The joint legislative task force on the underground economy ~~((in the Washington state construction industry))~~ is established. For purposes of this section, "underground economy" means ~~((contracting and construction))~~ business activities in which payroll is unreported or underreported with consequent nonpayment of payroll taxes to federal and state agencies including nonpayment of workers' compensation and unemployment compensation taxes.

(2) The purpose of the task force is to formulate a state policy to establish cohesion and transparency between state agencies so as to increase the oversight and regulation of the underground economy practices ~~((in the construction industry))~~ in this state. To assist the task force in achieving this goal and to determine the extent of and projected costs to the state and workers of the underground economy ~~((in the construction industry))~~, the task force shall contract with the institute for public policy, or, if the institute is unavailable, another entity with expertise capable of providing such assistance.

(3)(a) The task force shall consist of the following members:

(i) The chair and ranking minority member of the senate labor, commerce, research and development committee;

(ii) The chair and ranking minority member of the house of representatives commerce and labor committee;

(iii) Four members representing ~~((the construction))~~ business interests, selected from nominations submitted by statewide ~~((construction))~~ business organizations and appointed

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jointly by the president of the senate and the speaker of the house of representatives;

(iv) Four members representing ~~((construction laborers))~~ labor interests, selected from nominations submitted by statewide labor organizations and appointed jointly by the president of the senate and the speaker of the house of representatives;

(v) One member representing cities, appointed by an association of cities;

(vi) One member representing counties, appointed by an association of counties.

(b) In addition, the employment security department, the department of labor and industries, and the department of revenue shall cooperate with the task force and shall each maintain a liaison representative, who is a nonvoting member of the task force. The departments shall cooperate with the task force and the institute for public policy, or other entity as appropriate, and shall provide information and data as the task force or the institute, or other entity as appropriate, may reasonably request.

(c) The task force shall choose its chair or cochairs from among its legislative membership. The chairs of the senate labor, commerce, research and development committee and the house of representatives commerce and labor committee shall convene the initial meeting of the task force.

(4) In conducting its study in 2009, the task force may consider:

(a) Issues previously discussed by the joint legislative task force on the underground economy in the construction industry and whether these issues need to be addressed in nonconstruction industries;

(b) The role of local governments in monitoring the underground economy;

(c) The need to establish additional benchmarks and measures for purposes of section 13 of this act;

(d) Such other items the task force deems necessary.

(5)(a) The task force shall use legislative facilities and staff support shall be provided by senate committee services and the house of representatives office of program research. Within available funding, the task force may hire additional staff with specific technical expertise if such expertise is necessary to carry out the mandates of this study.

(b) Legislative members of the task force shall be reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members, except those representing an employer or organization, are entitled to be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(c) The expenses of the task force will be paid jointly by the senate and house of representatives. Task force expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

~~((5))~~ (6) The task force shall report its ((preliminary)) findings and recommendations to the legislature by ((January 1, 2008, and submit a final report to the legislature by)) December ((31, 2008)) 1, 2009.

~~((6))~~ (7) This section expires ((July 1,)) December 15, 2009.

NEW SECTION. Sec. 13. The department of labor and industries, the employment security department, and the department of revenue shall coordinate and report to the appropriate committees of the legislature by December 1st of each year on the effectiveness of efforts implemented since July 1, 2008, to address the underground economy. The agencies

shall use benchmarks and measures established by the institute for public policy and other measures it determines appropriate.

NEW SECTION. Sec. 14. Section 11 of this act takes effect October 1, 2009."

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

MOTION

Senator Holmquist moved that the following amendment by Senators Holmquist, King and Parlette to the committee striking amendment be adopted.

On page 10, after line 23, strike all material through line 28 on page 12.

ReNUMBER the sections consecutively and correct any internal references accordingly.

On page 13, line 5 of the title amendment, after "50.12.070"; strike "amending 2008 c 120 s 10 (uncodified);"

Senators Holmquist, Honeyford and Schoesler spoke in favor of adoption of the amendment to the committee striking amendment.

Senators Kohl-Welles and Marr spoke against adoption of the amendment to the committee striking amendment.

MOTION

On motion of Senator Marr, Senators Brown and Hatfield were excused.

The President declared the question before the Senate to be the adoption of the amendment by Senators Holmquist, King and Parlette on page 10, after line 23 to the committee striking amendment to Substitute House Bill No. 1555.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not 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 to Substitute House Bill No. 1555.

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 "industry;" strike the remainder of the title and insert "amending RCW 60.28.021, 60.28.040, 60.28.051, 60.28.060, and 50.12.070; amending 2008 c 120 s 10 (uncodified); reenacting and amending RCW 60.28.011; adding a new section to chapter 18.27 RCW; adding a new section to chapter 35.21 RCW; adding a new section to chapter 35A.21 RCW; adding a new section to chapter 36.01 RCW; adding a new section to chapter 51.04 RCW; creating a new section; prescribing penalties; providing an effective date; and providing an expiration date."

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Substitute House Bill No. 1555 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 Kohl-Welles spoke in favor of passage of the bill.

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The President declared the question before the Senate to be the final passage of Substitute House Bill No. 1555, as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 1555 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 31; Nays, 16; Absent, 0; Excused, 2.

Voting yea: Senators Berkey, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Benton, Brandland, Carrell, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Schoesler, Stevens and Zarelli

Excused: Senators Brown and Hatfield

SUBSTITUTE HOUSE BILL NO. 1555 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 SUBSTITUTE HOUSE BILL NO. 1553, by House Committee on Judiciary (originally sponsored by Representatives Takko, Goodman, Williams, Hurst, Pedersen and Campbell)

Addressing claims for damages against the state and local governmental entities.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be not adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this section.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. Presentation is accomplished by delivery to the agent or other person designated to accept delivery at the agent's office, by registered mail, or by certified mail, return receipt requested.

The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) ~~(All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.)~~ All claims for damages must be presented on the standard tort claim form, maintained by the risk management division of the office of financial management and on its web site, and be adopted by the local government, and must: Describe the conduct and the circumstances that brought about the injury or damage; describe the injury or damage; state the time and place that the injury or damage occurred; state the names of all persons involved, if known; and contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose. The claim form must not list the claimant's social security number and must not require information not specified under this section. The claim must be signed: (a) By the party making the claim; (b) by the claimant's parent, guardian, or personal representative; (c) by a person with a written power of attorney; or (d) by an attorney admitted to practice in Washington state on the claimant's behalf. Local governmental entities must make available the standard tort claim form with instructions on how the form is to be presented, as well as the name, address, and business hours of the agent of the local governmental entity. If the claim form provided by the local governmental entity fails to seek the information specified in this section or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to file with the proper designated agent. The amount of damages stated on the claim form is not admissible at trial.

(4) No action shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to ~~((and filed with))~~ the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty(+) calendar day period. An action commenced within five business days after the sixty calendar day period has elapsed will be deemed timely.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 2. RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as follows:

(1) All claims against the state, or against the state's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct, except for claims involving injuries from health care, which are governed solely by the

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procedures set forth in chapter 7.70 RCW and are exempt from this section, shall be presented to ~~((and filed with))~~ the risk management division. ~~((All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.))~~ Presentation is accomplished by delivery to the risk management division, by registered mail, or by certified mail, return receipt requested. All claims for damages must be presented on the standard tort claim form, maintained by the risk management division and on its web site, and must: Describe the conduct and the circumstances that brought about the injury or damage; describe the injury or damage; state the date, time, and place that the injury or damage occurred; state the names of all persons involved, if known; and contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose. The claim form must not list the claimant's social security number and must not require information not specified under this section. The claim must be signed: (a) By the party making the claim; (b) by the claimant's parent, guardian, or personal representative; (c) by a person with a written power of attorney; or (d) by an attorney admitted to practice in Washington state on the claimant's behalf. The amount of damages stated on the claim form is not admissible at trial.

(2) The state shall make available the standard tort claim form with instructions on how the form is to be presented, as well as the name, address, and business hours of the risk management division.

(3) With respect to the content of ~~((such))~~ claims under this section and all procedural requirements in this section, this section ~~((shall))~~ must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 3. RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as follows:

No action subject to the claim presentation requirements of RCW 4.92.100 shall be commenced against the state, or against any state officer, employee, or volunteer, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim is presented to ~~((and filed with))~~ the risk management division. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty ~~((+))~~ calendar day period. An action commenced within five business days after the sixty calendar day period has elapsed is deemed timely."

On page 1, line 2 of the title, after "entities;" strike the remainder of the title and insert "and amending RCW 4.96.020, 4.92.100, and 4.92.110."

The President declared the question before the Senate to be the motion by Senator Fairley to not adopt the committee striking amendment by the Committee on Government Operations & Elections to Engrossed Substitute House Bill No. 1553.

The motion by Senator Fairley carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Fairley moved that the following striking amendment by Senator Fairley be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 4.96.020 and 2006 c 82 s 3 are each amended to read as follows:

(1) The provisions of this section apply to claims for damages against all local governmental entities and their officers, employees, or volunteers, acting in such capacity, except that claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter.

(2) The governing body of each local governmental entity shall appoint an agent to receive any claim for damages made under this chapter. The identity of the agent and the address where he or she may be reached during the normal business hours of the local governmental entity are public records and shall be recorded with the auditor of the county in which the entity is located. All claims for damages against a local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, shall be presented to the agent within the applicable period of limitations within which an action must be commenced. A claim is deemed presented when the claim form is delivered in person or is received by the agent by regular mail, registered mail, or certified mail, with return receipt requested, to the agent or other person designated to accept delivery at the agent's office. The failure of a local governmental entity to comply with the requirements of this section precludes that local governmental entity from raising a defense under this chapter.

(3) ~~((All claims for damages arising out of tortious conduct must locate and describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim in the time prescribed or if the claimant is a minor, or is a nonresident of the state absent therefrom during the time within which the claim is required to be filed, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the claimant.))~~ For claims for damages presented after the effective date of this section, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division of the office of financial management, except as allowed under (c) of this subsection. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

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(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) Local governmental entities shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity. If a local governmental entity chooses to also make available its own tort claim form in lieu of the standard tort claim form, the form:

(i) May require additional information beyond what is specified under this section, but the local governmental entity may not deny a claim because of the claimant's failure to provide that additional information;

(ii) Must not require the claimant's social security number; and

(iii) Must include instructions on how the form is to be presented and the name, address, and business hours of the agent of the local governmental entity appointed to receive the claim.

(d) If any claim form provided by the local governmental entity fails to require the information specified in this section, or incorrectly lists the agent with whom the claim is to be filed, the local governmental entity is deemed to have waived any defense related to the failure to provide that specific information or to present the claim to the proper designated agent.

(e) Presenting either the standard tort claim form or the local government tort claim form satisfies the requirements of this chapter.

(f) The amount of damages stated on the claim form is not admissible at trial.

(4) No action subject to the claim filing requirements of RCW 4.92.100 shall be commenced against any local governmental entity, or against any local governmental entity's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim has first been presented to ~~((and filed with))~~ the agent of the governing body thereof. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty(=) calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed.

(5) With respect to the content of claims under this section and all procedural requirements in this section, this section must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 2. RCW 4.92.100 and 2006 c 82 s 1 are each amended to read as follows:

(1) All claims against the state, or against the state's officers, employees, or volunteers, acting in such capacity, for damages arising out of tortious conduct, except for claims involving injuries from health care, shall be presented to ~~((and filed with))~~ the risk management division. ~~((All such claims shall be verified and shall accurately describe the conduct and circumstances which brought about the injury or damage, describe the injury or damage, state the time and place the injury or damage occurred, state the names of all persons involved, if known, and shall contain the amount of damages claimed, together with a statement of the actual residence of the claimant at the time of presenting and filing the claim and for a period of six months immediately prior to the time the claim arose. If the claimant is incapacitated from verifying, presenting, and filing the claim or if the claimant is a minor, or is a nonresident of the state, the claim may be verified, presented, and filed on behalf of the claimant by any relative, attorney, or agent representing the~~

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claimant:)) Claims involving injuries from health care are governed solely by the procedures set forth in chapter 7.70 RCW and are exempt from this chapter. A claim is deemed presented when the claim form is delivered in person or by regular mail, registered mail, or certified mail, with return receipt requested, to the risk management division. For claims for damages presented after the effective date of this section, all claims for damages must be presented on the standard tort claim form that is maintained by the risk management division. The standard tort claim form must be posted on the office of financial management's web site.

(a) The standard tort claim form must, at a minimum, require the following information:

(i) The claimant's name, date of birth, and contact information;

(ii) A description of the conduct and the circumstances that brought about the injury or damage;

(iii) A description of the injury or damage;

(iv) A statement of the time and place that the injury or damage occurred;

(v) A listing of the names of all persons involved and contact information, if known;

(vi) A statement of the amount of damages claimed; and

(vii) A statement of the actual residence of the claimant at the time of presenting the claim and at the time the claim arose.

(b) The standard tort claim form must be signed either:

(i) By the claimant, verifying the claim;

(ii) Pursuant to a written power of attorney, by the attorney in fact for the claimant;

(iii) By an attorney admitted to practice in Washington state on the claimant's behalf; or

(iv) By a court-approved guardian or guardian ad litem on behalf of the claimant.

(c) The amount of damages stated on the claim form is not admissible at trial.

(2) The state shall make available the standard tort claim form described in this section with instructions on how the form is to be presented and the name, address, and business hours of the risk management division. The standard tort claim form must not list the claimant's social security number and must not require information not specified under this section.

(3) With respect to the content of ~~((such))~~ claims under this section and all procedural requirements in this section, this section ~~((shall))~~ must be liberally construed so that substantial compliance will be deemed satisfactory.

Sec. 3. RCW 4.92.110 and 2006 c 82 s 2 are each amended to read as follows:

No action subject to the claim filing requirements of RCW 4.92.100 shall be commenced against the state, or against any state officer, employee, or volunteer, acting in such capacity, for damages arising out of tortious conduct until sixty calendar days have elapsed after the claim is presented to ~~((and filed with))~~ the risk management division. The applicable period of limitations within which an action must be commenced shall be tolled during the sixty(=) calendar day period. For the purposes of the applicable period of limitations, an action commenced within five court days after the sixty calendar day period has elapsed is deemed to have been presented on the first day after the sixty calendar day period elapsed."

Senator Kline 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 Senator Fairley to Engrossed Substitute House Bill No. 1553.

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

MOTION FOR IMMEDIATE RECONSIDERATION

Senator Kline moved to immediately reconsider the vote by

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which the striking amendment by Senator Fairley to Engrossed Substitute House Bill No. 1553 was adopted.

MOTION

Senator King moved that the following amendment by Senator King and others to the striking amendment be adopted.

On page 2, beginning on line 28 of the amendment, after "signed" strike all material through "By" on line 34 and insert "by the party making the claim, unless the party making the claim is incapacitated. If the party making the claim is incapacitated, the claim may be signed by: (i) The claimant's parent or personal representative; (ii) a person with a written power of attorney; (iii) an attorney admitted to practice in Washington state on the claimant's behalf; or (iv)"

On page 5, beginning on line 4 of the amendment, after "signed" strike all material through "By" on line 10 and insert "by the party making the claim, unless the party making the claim is incapacitated. If the party making the claim is incapacitated, the claim may be signed by: (i) The claimant's parent or personal representative; (ii) a person with a written power of attorney; (iii) an attorney admitted to practice in Washington state on the claimant's behalf; or (iv)"

Senator King spoke in favor of adoption of the amendment to the striking amendment.

Senator Kline spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator King and others on page 2, line 28 to the striking amendment to Engrossed Substitute House Bill No. 1553.

The motion by Senator King failed and the amendment to the striking amendment was not adopted by a rising vote.

MOTION

Senator Swecker moved that the following amendment by Senator Swecker and others to the striking amendment be adopted.

On page 3, beginning on line 20 of the amendment, strike "(f) The amount of damages stated on the claim form is not admissible at trial."

On page 5, beginning on line 12 of the amendment, strike "(c) The amount of damages stated on the claim form is not admissible at trial."

Senators Swecker, King, Haugen and Kastama spoke in favor of adoption of the amendment to the striking amendment.

Senator Kline spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Swecker and others on page 3, line 20 to the striking amendment to Engrossed Substitute House Bill No. 1553.

The motion by Senator Swecker failed and the amendment to the striking amendment was not adopted by voice vote.

MOTION

Senator Delvin moved that the following amendment by Senator Delvin and others to the striking amendment be adopted.

On page 3, beginning on line 34 of the amendment, after "section" strike "and all procedural requirements in this section"

On page 5, beginning on line 20 of the amendment, after "this section" strike "and all procedural requirements in this section"

Senator Delvin spoke in favor of adoption of the amendment to the striking amendment.

Senator Kline spoke against adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Delvin and others on page 3, line 34 to the striking amendment to Engrossed Substitute House Bill No. 1553.

The motion by Senator Delvin failed and the amendment to the striking amendment was not adopted by voice vote.

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Fairley to Engrossed Substitute House Bill No. 1553.

The motion by Senator Fairley 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 "entities;" strike the remainder of the title and insert "and amending RCW 4.96.020, 4.92.100, and 4.92.110."

MOTION

On motion of Senator Kline, the rules were suspended, Engrossed Substitute House Bill No. 1553 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 Kline spoke in favor of passage of the bill.

Senator Benton spoke against passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1553 as amended by the Senate

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1553 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 39; Nays, 9; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Rockefeller, Shin, Swecker, Tom and Zarelli

Voting nay: Senators Brandland, Delvin, Holmquist, Honeyford, King, Morton, Schoesler, Sheldon and Stevens

Excused: Senator Hatfield

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1553 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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ENGROSSED HOUSE BILL NO. 1836, by Representatives Ormsby, Wood, Dunshee, Campbell, Moeller, Van De Wege, Simpson, Driscoll, Chase and Conway

Regarding public works involving off-site prefabrication.

The measure was read the second time.

MOTION

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

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1 A new section is added to chapter 39.12 RCW to read as follows:

(1)(a) On public works projects estimated to cost over one million dollars, all contracts for the production of off-site, prefabricated, nonstandard, project-specific items entered into by the contractor or any subcontractor with any contractor or employer who is located out of state and is not required to register under chapter 18.27 RCW must contain a provision requiring the out-of-state contractor or employer to submit a certified list of any off-site, prefabricated, nonstandard, project-specific items produced under the terms of each respective contract outside Washington. The list must be submitted to the awarding agency and to the department of labor and industries within ten days of delivery under the respective contract. The list must provide:

- (i) A general description of the item;
- (ii) The name and address of the in-state contractor, subcontractor, or employer;
- (iii) The name, address, and federal employer identification number of the out-of-state contractor, subcontractor, or employer that produced the item.

(b) If the awarding agency is aware of incidences of noncompliance with the requirement to submit a list under (a) of this subsection, the awarding agency must report such incidences to the department of labor and industries. The failure to file a certified list required under (a) of this subsection constitutes the failure to file a record required to be filed under this chapter and subjects the out-of-state contractor or employer to the penalties in RCW 39.12.050. However, no penalty may be imposed for a first violation if the contractor or employer files the certified list within a reasonable time as determined by the department of labor and industries.

(c) The in-state contractor or subcontractor that contracted for the off-site, prefabricated, nonstandard, project-specific item produced outside Washington must notify the awarding agency when reasonably possible upon receipt of the item.

(2)(a) On public works projects estimated to cost over one million dollars, all contracts for the production of off-site, prefabricated, nonstandard, project-specific items entered into by the contractor or any subcontractor with any contractor or employer who is located out of state and is not required to register under chapter 18.27 RCW must contain a provision requiring the out-of-state contractor or employer to produce certified copies of payroll records as provided in subsection (3) of this section. The contract must also state that the contractor or employer producing the item consents to the jurisdiction of Washington for the enforcement of subsection (3) of this section.

(b) If the director of the department of labor and industries determines after a hearing under chapter 34.05 RCW that an in-state contractor or subcontractor has failed to comply with this

subsection, the contractor or subcontractor is subject to a civil penalty of one thousand dollars for each second or subsequent failure to comply. Civil penalties shall be deposited into the public works administration account. The civil penalty does not apply to a violation determined by the director to be an inadvertent error.

(3) Within ten days of receipt of a request by an interested party, contractors and employers producing the items identified in subsection (2)(a) of this section outside Washington must file with the awarding agency and the department of labor and industries certified copies of payroll records. The payroll records must contain the number of labor hours expended producing the items and the hourly rate of wages paid to the workers in each trade or occupation used in producing the items. If the awarding agency is aware of incidences of noncompliance with the requirement to submit payroll records under this subsection, the awarding agency must report such incidences to the department of labor and industries. The failure to produce the certified copies constitutes the failure to file a record required to be filed under this chapter and subjects the contractor or employer to the penalties in RCW 39.12.050.

(4) This section does not apply to entities responsible for supplying the materials to the manufacturers, fabricators, or employers that will be used to complete, construct, or assemble the items prior to their delivery to the public works site.

(5)(a) The required lists, payroll records, and certifications under this section must be submitted on forms made available by the department of labor and industries.

(b) The department of general administration shall develop standard contract language to meet the requirements of subsections (1)(a) and (2)(a) of this section and make the language available on its web site.

(6) For purposes of this section, "off-site, prefabricated, nonstandard, project-specific items" means products or items that are: (a) Made primarily of architectural or structural precast concrete, fabricated steel, pipe and pipe systems, or sheet metal and sheet metal duct work; (b) produced specifically for the public work and not considered to be regularly available shelf items; (c) produced or manufactured by labor expended to assemble or modify standard items; and (d) produced at an off-site location.

(7) Upon request, the department of labor and industries must submit any data collected under this act to the appropriate committees of the legislature for review.

(8) This section applies to contracts entered into on or after September 1, 2009, and expires December 31, 2011.

NEW SECTION. Sec. 2 The expiration of section 1 of this act does not affect any request or proceeding instituted prior to the expiration of section 1 of this act."

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

MOTION

Senator King moved that the following amendment by Senator King and others to the committee striking amendment be adopted.

On page 1, line 6, after "over" strike "one" and insert "five"

On page 2, line 11, after "over" strike "one" and insert "five"

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

Senator Kohl-Welles spoke against adoption of the amendment to the committee striking amendment.

The President declared the question before the Senate to be

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the adoption of the amendment by Senator King and others on page 1, line 6 to the committee striking amendment to Engrossed House Bill No. 1836.

The motion by Senator King failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Holmquist moved that the following amendment by Senator Holmquist and others to the committee striking amendment be adopted.

On page 1, line 8, after "items" insert "estimated to cost over fifty thousand dollars"

On page 2, line 13, after "items" insert "estimated to cost over fifty thousand dollars"

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

Senator Kohl-Welles spoke against 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 Holmquist on page 1, line 8 to the committee striking amendment to Engrossed House Bill No. 1836.

The motion by Senator Holmquist failed and the amendment to the committee striking amendment was not adopted by rising vote.

MOTION

Senator Delvin moved that the following amendment by Senator Delvin and others to the committee striking amendment be adopted.

On page 2, line 3, after "to the", strike "penalties in RCW 39.12.050" and insert "civil penalties in RCW 39.12.050(1)"

On page 2, line 24, after "penalty of", strike "one thousand" and insert "five hundred"

On page 3, line 8, after "the" strike "penalties in RCW 39.12.050" and insert "civil penalties in RCW 39.12.050(1)"

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

Senator Kohl-Welles spoke against 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 Delvin and others on page 2, line 3 to the committee striking amendment to Engrossed House Bill No. 1836.

The motion by Senator Delvin failed and the amendment to the committee striking amendment was not adopted by voice vote.

MOTION

Senator Haugen moved that the following amendment by Senators Haugen and Swecker to the committee striking amendment be adopted.

On page 3, after line 32 of the amendment, insert the following:

"(9) This section does not apply to transportation projects."

Senators Haugen 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 Haugen and Swecker on page 3, after line 32 to the committee striking amendment to Engrossed House Bill No. 1836.

The motion by Senator Haugen 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 Labor, Commerce & Consumer Protection as amended to Engrossed House Bill No. 1836.

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

MOTION

On motion of Senator Kohl-Welles, the rules were suspended, Engrossed House Bill No. 1836 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, Kline, Tom and Keiser spoke in favor of passage of the bill.

Senators Swecker, Sheldon, Haugen, Schoesler, Honeyford, King and Carrell spoke against passage of the bill.

Senator Kastama spoke on final passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 1836. as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 1836 as amended by the Senate and the bill failed the Senate by the following vote: Yeas, 24; Nays, 23; Absent, 1; Excused, 1.

Voting yea: Senators Berkey, Brown, Eide, Fairley, Franklin, Hargrove, Hobbs, Jacobsen, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller and Tom

Voting nay: Senators Becker, Brandland, Carrell, Delvin, Fraser, Haugen, Hewitt, Holmquist, Honeyford, Jarrett, Kastama, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senator Benton

Excused: Senator Hatfield

ENGROSSED HOUSE BILL NO. 1836 as amended by the Senate, failed to receive the constitutional majority, was declared lost.

MOTION

At 5:53 p.m., on motion of Senator Eide, the Senate was declared to recessed until 7:00 p.m.

EVENING SESSION

The Senate was called to order at 7:00 p.m. by President Owen.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1782, by House Committee on Early Learning & Children's Services

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(originally sponsored by Representatives Goodman, Roberts, Walsh, Dickerson, Darnelle, Kagi and Nelson)

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Concerning parent participation in dependency matters.

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 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) The department of social and health services shall submit a recommendation to the court as to the further need for shelter care in all cases in which it is the petitioner. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health,

welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order the supervising agency or the department of social and health services to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative. The court shall ask the parents whether the department discussed with them the placement of the child with a relative and shall determine whether the department has made efforts in this regard;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

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(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order, including why placement with a relative is not appropriate at this time. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only

upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 2. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative or the department or a licensed child placing agency for supervision of the child's placement. The department or agency supervising the child's placement has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. If the court

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does not place the child with a relative, the court shall indicate why placement with a relative did not occur. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon

cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 3. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not

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already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the agency is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives and if not, the court shall indicate why the child is not in a relative placement;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with an agency case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the agency case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for

themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under ~~((RCW 13.34.130 and this section))~~ this chapter is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

NEW SECTION. Sec. 4. A new section is added to chapter 13.34 RCW to read as follows:

(1) At a disposition, review, or any other hearing that occurs after a dependency is established under this chapter, the court shall ensure that a dependent child over the age of twelve, who is otherwise present in the courtroom, is aware of and understands the duties and responsibilities the department has to a child subject to a dependency including, but not limited to, the following:

(a) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(b) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(c) Parent-child visits;

(d) Statutory preference for placement with a relative, if appropriate; and

(e) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(2) If the dependent child is already represented by counsel, the court need not comply with subsection (1) of this section.

NEW SECTION. Sec. 5. A new section is added to chapter 13.34 RCW to read as follows:

(1) The administrative office of the courts shall develop standard court forms and format rules for mandatory use by parties in dependency matters commenced under this chapter or chapter 26.44 RCW. Forms shall be developed not later than November 1, 2009, and the mandatory use requirement shall be effective January 1, 2010. The administrative office of the courts has continuing responsibility to develop and revise mandatory forms and format rules as appropriate.

(2) According to rules established by the administrative office of the courts, a party may delete unnecessary portions of the forms and may supplement the mandatory forms with additional material.

(3) Failure by a party to use the mandatory forms or follow the format rules shall not be a reason to dismiss a case, refuse a filing, or strike a pleading. The court may, however, require the party to submit a corrected pleading and may impose terms payable to the opposing party or payable to the court, or both.

(4) The administrative office of the courts shall distribute a master copy of the mandatory forms to all county court clerks. Upon request, the administrative office of the courts and county clerks must distribute the forms to the public and may charge for the cost of production and distribution of the forms. Private

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vendors also may distribute the forms. Distribution of forms may be in printed or electronic form.

Sec. 6. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

The department shall have the duty to provide child welfare services and shall:

(1) Develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and annually report to the governor and the legislature concerning the department's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) Investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) Offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) Monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. The policy for monitoring placements under this section shall require that children in out-of-home care and in-home dependencies and their caregivers receive a private and individual face-to-face visit each month.

(a) The department shall conduct the monthly visits with children and caregivers required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.

(b) In cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days.

(6) Have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the

routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) Have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) Have authority to purchase care for children; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department.

(9) Establish a children's services advisory committee which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) Have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) Refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) Have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department of social and health services under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant

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to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) Have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) Consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department is performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

(16)(a) Within current funding levels, place on the public web site maintained by the department a document listing the duties and responsibilities the department has to a child subject to a dependency petition including, but not limited to, the following:

(i) Reasonable efforts, including the provision of services, toward reunification of the child with his or her family;

(ii) Sibling visits subject to the restrictions in RCW 13.34.136(2)(b)(ii);

(iii) Parent-child visits;

(iv) Statutory preference for placement with a relative, if appropriate; and

(v) Statutory preference that an out-of-home placement be found that would allow the child to remain in the same school district, if practical.

(b) The document must be prepared in conjunction with a community-based organization and must be updated as needed.

NEW SECTION. Sec. 7. A new section is added to chapter 74.13 RCW to read as follows:

Once a dependency is established under chapter 13.34 RCW, the social worker assigned to the case shall provide the dependent child with a document containing the information contained in RCW 74.13.031(16). The social worker shall also explain the content of the document to the child and direct the child to the department's web site for further information. The social worker shall document, in the electronic data system, that this requirement was met.

Sec. 8. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

(1) The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145.

(2) Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

(3) Such agreements shall meet the following criteria:

~~((1+))~~ (a) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

~~((2))~~ (b) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

~~((3))~~ (c) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support, provided that if the secretary shall find that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145, including annual review of the amount of such support.

~~((4))~~ (d) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

(4) Six months before an adoption is finalized under chapter 26.33 RCW and RCW 74.13.100 through 74.13.145, the department must provide to the prospective adoptive parents, in writing, information describing the limits of the adoption support program including the following information:

(a) The limits on monthly in-cash payments to adoptive families;

(b) The limits on the availability of mental health services and the funds with which to pay for these services;

(c) How to access mental health services for children receiving adoption support services;

(d) The limits on the one-time cash payments to adoptive families for expenses related to their adopted children;

(e) That payment for residential or group care is not available for adopted children under this chapter;

(f) The risks inherent in adopting a child from the department.

Sec. 9. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; information on the limits of the adoption support program as provided in RCW 74.13.109(4); and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential

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foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Preservice training shall be completed prior to the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 10. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

(1) A foster parent who believes that a department employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

((+)) (a) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, or the department, provided information, or otherwise cooperated with the investigation of such a complaint;

((=)) (b) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

((=)) (c) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

((+)) (d) The foster parent has advocated for services on behalf of the foster child;

((=)) (e) The foster parent has sought to adopt a foster child in the foster parent's care; or

((=)) (f) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW, may file a complaint with the office of the family and children's ombudsman.

(2) The ombudsman may investigate the allegations of retaliation. The ombudsman shall have access to all relevant information and resources held by or within the department by which to conduct the investigation. Upon the conclusion of its investigation, the ombudsman shall provide its findings in written form to the department.

(3) The department shall notify the office of the family and children's ombudsman in writing, within thirty days of receiving the ombudsman's findings, of any personnel action taken or to be taken with regard to the department employee.

(4) The office of the family and children's ombudsman shall also include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department and foster parents."

MOTION

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

On page 19, line 16, after "under", strike "this chapter", and insert "the adoption support program"

Senator Hargrove 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 Hargrove and Stevens on page 19, line 16 to the committee striking amendment to Engrossed Substitute House Bill No. 1782.

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The motion by Senator Hargrove 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 Human Services & Corrections as amended to Engrossed Substitute House Bill No. 1782.

The motion by Senator Hargrove 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 "matters;" strike the remainder of the title and insert "amending RCW 13.34.065, 74.13.031, 74.13.109, 74.13.250, and 74.13.333; reenacting and amending RCW 13.34.130 and 13.34.138; adding new sections to chapter 13.34 RCW; and adding a new section to chapter 74.13 RCW."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 1782 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.

MOTION

On motion of Senator Marr, Senators Brown, Haugen, Prentice and Rockefeller were excused.

MOTION

On motion of Senator Brandland, Senators Benton, Carrell, Roach and Schoesler were excused.

The President declared the question before the Senate to be the final passage of Engrossed Substitute House Bill No. 1782 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 1782 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 41; Nays, 0; Absent, 2; Excused, 6.

Voting yea: Senators Becker, Berkey, Brandland, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Haugen, Hewitt, Hobbs, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker and Zarelli

Absent: Senators Holmquist and Tom

Excused: Senators Benton, Brown, Carrell, Hatfield, Prentice and Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 1782 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.

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 SECOND READING

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HOUSE BILL NO. 1888, by Representatives Springer and Angel

Repealing RCW 46.12.295.

The measure was read the second time.

MOTION

On motion of Senator Berkey, the rules were suspended, House Bill No. 1888 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Berkey spoke in favor of passage of the bill.

MOTION

On motion of Senator Marr, Senator Tom was excused.

The President declared the question before the Senate to be the final passage of House Bill No. 1888.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1888 and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Prentice and Rockefeller

HOUSE BILL NO. 1888, 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. 2227, by House Committee on Education Appropriations (originally sponsored by Representatives Probst, Orwall, Santos, Nelson, Sullivan, Lias, Williams, Carlyle, Maxwell, Conway, Morrell, White, Goodman, Jacks, Kenney and Seaquist)

Enacting the evergreen jobs act.

The measure was read the second time.

MOTION

Senator Kastama moved that the following committee striking amendment by the Committee on Economic Development, Trade & Innovation be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature finds that the 2009 American recovery and reinvestment act includes new investments in research and development for green industries, renewable energy production, and incentives for installation and use of renewable energy and energy efficiency retrofits. The

legislature further finds that state level initiatives include additional incentives for installation of renewable energy and energy efficiency retrofits. These initiatives include new incentives for production of renewable energy that will encourage the state to use renewable energy as well as become a major supplier of renewable energy to the world.

The legislature believes that these investments and initiatives will significantly increase demand for production of renewable energy and installation of energy efficiency retrofits. The legislature recognizes that these demands will cultivate job opportunities for Washington state residents during economic downturns as such investments are particularly valuable during those times. The legislature also finds that the state's residents and economy may be unable to take full advantage of these opportunities if there is a shortage of workers with the skills needed for jobs in renewable energy and energy efficiency.

Further, the legislature finds that the current state and federal economic climate lends itself to the acceleration of the greening of the Washington economy, and presents an opportunity for Washington to take its place as a leader in the overall green economy of the future. The legislature recognizes that in order to most efficiently and effectively capture and use existing and new funding streams and ensure that Washington does in fact become a leader in the green economy, a statewide, comprehensive, and strategic plan must be developed to monitor the use of stimulus funds and ensure that local organizations participating in the programs receive the state support they need.

Therefore, the legislature intends that Washington state accelerate the greening of its economy by creating a highly skilled green jobs workforce by emphasizing green jobs skills within existing education and training funds through the evergreen jobs initiative. The legislature intends to establish the evergreen jobs initiative to ensure that the state's workforce is prepared for the new green economy; the state attracts investment and job creation in the green economy; the state is a net exporter of green industry products and services, with special attention to renewable energy technology and components; and Washington is a national and world leader in the green economy.

To achieve these ends, the evergreen jobs initiative will create a comprehensive and responsive framework to assist Washington in receiving at least a per capita share of federal stimulus funds and to ensure that state and local agencies and organizations receive the institutional support they need to capture and effectively use those funds.

Sec. 2. RCW 43.330.310 and 2008 c 14 s 9 are each amended to read as follows:

(1) The ~~((legislature establishes))~~ Washington state evergreen jobs initiative is established as a comprehensive green economy jobs growth initiative ~~((based on the goal of, by 2020, increasing the number of green economy jobs to twenty-five thousand from the eight thousand four hundred green economy jobs the state had in 2004))~~ with the goals of:

(a) Creating fifteen thousand new green economy jobs by 2020, with a target of thirty percent of those jobs going to veterans, members of the national guard, and low-income and disadvantaged populations;

(b) Capturing and deploying federal funds in a focused, effective, and coordinated manner;

(c) Preparing the state's workforce to take full advantage of green economy job opportunities and to meet the recruitment and training needs of industry and small businesses;

(d) Attracting private sector investment that will create new and expand existing jobs, with an emphasis on services and

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products that have a high economic or environmental impact and can be exported domestically and internationally;

(e) Making Washington state a net exporter of green industry products and services, with special attention to renewable energy technology and components;

(f) Empowering local agencies and organizations to recruit green economy businesses and jobs into the state by providing state support and assistance;

(g) Capitalizing on existing partnership agreements in the Washington works plan and the Washington workforce compact; and

(h) Operating in concert with the fourteen guiding principles identified by the department in its Washington state's green economy strategic framework.

(2) ((The department, in consultation with the employment security department, the state workforce training and education coordinating board, the state board of [for] community and technical colleges, and the higher education coordinating board, shall develop a defined list of terms, consistent with current workforce and economic development terms, associated with green economy industries and jobs:

—(3)(a)) The department and the workforce training and education coordinating board, in consultation with a working group consisting of government agencies, labor, businesses, and the Washington state apprenticeship training council, must develop and regularly update a comprehensive strategic plan to:

(a) Coordinate efforts across the state to ensure that federal funds are captured and deployed in a focused, effective, and coordinated manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

(i) Associate development organizations;

(ii) Workforce development councils;

(iii) Public utility districts; and

(iv) Community action agencies;

(c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:

(i) Administrative and technical assistance;

(ii) Assistance with and expediting of permit processes; and

(iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;

(d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;

(e) Emphasize projects that:

(i) Have a strong and lasting economic or environmental impact;

(ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;

(iii) Create training programs leading to a credential, certificate, or degree in a green economy field;

(iv) Strengthen the state's competitiveness in a particular niche of the green economy;

(v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;

(vi) Comply with prevailing wage provisions of chapter 39.12 RCW;

(vii) Ensure at least fifteen percent of labor hours are performed by apprentices;

(f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;

(g) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:

(i) The number of new green jobs created each year, their wage levels, and, if determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;

(ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;

(iii) The timeliness of state deployment to local organizations; and

(iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;

(h) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;

(i) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities; and

(j) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and sections 3 through 5 of this act.

(3) The department and the workforce training and education coordinating board, in consultation with the department's working group, must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

(a) Actual statewide performance based on the performance measures identified in subsection (2)(g) of this section;

(b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;

(c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (2)(b) and (c) of this section;

(d) Recommendations for new or expanded financial incentives and comprehensive strategies to:

(i) Recruit, retain, and expand green economy industries and small businesses; and

(ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;

(e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided

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by state agencies under this section and sections 3 through 5 of this act; and

(f) Any other recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.

(4) The employment security department, in consultation with the department, the state workforce training and education coordinating board, ((the state board for community and technical colleges, the higher education coordinating board, Washington State University small business development center, and the Washington State University extension energy program, shall)) and the department's working group must take the following actions:

(a) Conduct labor market research to analyze the current labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of green economy industry employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries(=);

(b) ((The University of Washington business and economic development center shall: Analyze the current opportunities for and participation in the green economy by minority and women-owned business enterprises in Washington, identify existing barriers to their successful participation in the green economy; and develop strategies with specific policy recommendations to improve their successful participation in the green economy. The research may be informed by the research of the Puget Sound regional council prosperity partnership, as well as other entities. The University of Washington business and economic development center shall report to the appropriate committees of the house of representatives and the senate on their research, analysis, and recommendations by December 1, 2008.

(4) Based on the findings from subsection (3) of this section, the employment security department, in consultation with the department and taking into account the requirements and goals of chapter 14, Laws of 2008 and other state clean energy and energy efficiency policies, shall) Propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy(=The employment security department and the department shall take into account)); and

(c) Define which ((jobs)) family-sustaining wage and benefits ranges within green economy industries will be considered middle or high-wage occupations and occupations that are part of career pathways to the same(=based on family-sustaining wage and benefits ranges. These)).

(5) The definitions, designations, and ((the)) results of the employment security department's broader labor market research(=) under subsection (4) of this section shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.

((5) The department shall identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270.

(6) The department, consistent with the priorities established by the state economic development commission, shall:

(a) Develop targeting criteria for existing investments, and make recommendations for new or expanded financial incentives and comprehensive strategies, to recruit, retain, and expand green economy industries and small businesses; and

(b) Make recommendations for new or expanded financial incentives and comprehensive strategies to stimulate research and development of green technology and innovation, including designating innovation partnership zones linked to the green economy.

(7) For the purposes of this section, "target populations" means (a) entry-level or incumbent workers in high-demand green industries who are in, or are preparing for, high-wage occupations; (b) dislocated workers in declining industries who may be retrained for high-wage occupations in high-demand green industries; (c) dislocated agriculture, timber, or energy sector workers who may be retrained for high-wage occupations in high-demand green industries; (d) eligible veterans or national guard members; (e) disadvantaged populations; or (f) anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(8)) (6) The legislature directs the state workforce training and education coordinating board to create and pilot green industry skill panels. These panels shall consist of business representatives from industry sectors related to clean energy, labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries, state and local veterans agencies, employer associations, educational institutions, and local workforce development councils within the region that the panels propose to operate, and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for middle or high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall, in consultation with the department and its working group:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) ((Plan)) Recommend strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Recommend strategies to leverage and align other public and private funding sources.

((9)) (7) The ((green industries)) evergreen jobs training account is created in the state treasury. Funds deposited to the account may include gifts, grants, or endowments from public or private sources, in trust or otherwise. Moneys from the account must be utilized to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this subsection. The state board for community and technical colleges, in consultation with the state ((workforce training and education coordinating board, informed by the research of the employment security department and the strategies developed in this section)) department and its working group, may authorize expenditures from the account(=The state board for community and technical colleges)) but must distribute grants from the account on a competitive basis. Grant funds from the evergreen jobs training account should be used when other public or private funds are insufficient or unavailable.

(a)((f) Allowable uses of) These grant funds(=which should be used when other public or private funds are

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~~insufficient or unavailable, may include~~) may be used for, but are not limited to uses for:

- ~~((A))~~ (i) Curriculum development;
- ~~((B))~~ (ii) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;
- ~~((C))~~ (iii) Workforce education to target populations; ~~and~~
- ~~((D))~~ (iv) Adult basic and remedial education as necessary linked to occupation skills training; and
- (v) Coordinated outreach efforts by institutions of higher education and workforce development councils.

~~((ii) Allowable uses of)~~ (b) These grant funds ~~((do not include))~~ may not be used for student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

~~((b))~~ (c) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

- (i) Implementing effective education and training programs that meet industry demand; and
- (ii) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

~~((c))~~ (d) In awarding grants from the ~~((green industries))~~ evergreen jobs training account, the state board for community and technical colleges shall give priority to applicants that demonstrate the ability to:

(i) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise utilize strategies developed by green industry ~~((skills [skill]))~~ skill panels;

(ii) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(iii) Work collaboratively with other relevant stakeholders in the regional economy;

(iv) Link adult basic and remedial education, where necessary, with occupation skills training;

(v) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(vi) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

(8) The definitions in this subsection apply throughout this section and sections 3 through 5 of this act unless the context clearly requires otherwise.

(a) "Apprentice" means an apprentice enrolled in an apprenticeship training program approved by the Washington state apprenticeship council.

(b) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(c) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the project. This includes hours performed by workers employed by the contractor and all subcontractors working on the project but does not include hours worked by foremen, superintendents, and owners.

(d) "Target populations" means:

(i) Entry-level or incumbent workers who are in, or are preparing for, middle or high-wage, high-demand occupations in the green economy;

(ii) Dislocated workers in declining industries who may be retrained for middle or high-wage occupations in the green economy;

(iii) Eligible veterans or national guard members;

(iv) Disadvantaged populations; or

(v) Anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

NEW SECTION. Sec. 3. A new section is added to chapter 28B.50 RCW to read as follows:

(1) The college board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs, if the programs meet minimum criteria for identification as a high-demand program of study as defined by the state board for community and technical colleges, however any additional community and technical college high-demand funding authorized for the 2009-2011 fiscal biennium and thereafter may be subject to prioritization; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be conducted in partnership with local workforce development councils.

(2) The definitions in RCW 43.330.310(8) apply to this section.

NEW SECTION. Sec. 4. A new section is added to chapter 28C.18 RCW to read as follows:

(1) The board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts may be conducted in partnership with local workforce development councils.

(2) The definitions in RCW 43.330.310(8) apply to this section.

NEW SECTION. Sec. 5. A new section is added to chapter 49.04 RCW to read as follows:

(1) The council may prioritize workforce training programs that lead to apprenticeship programs in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be

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conducted in partnership with local workforce development councils.

(2) The definitions in RCW 43.330.310(8) apply to this section.

NEW SECTION. Sec. 6. Nothing in this act may be construed as a requirement for any agency to gain approval from another before allocating funding to the local level. Nothing in this act may be construed as precluding nonstate agencies from directly applying for and securing funds from the federal government. Nothing in this act may be construed as allowing agencies to require additional reporting or approval processes from local organizations or to impose unfunded mandates on local organizations.

NEW SECTION. Sec. 7. This act may be known and cited as the evergreen jobs act."

On page 1, line 1 of the title, after "jobs;" strike the remainder of the title and insert "amending RCW 43.330.310; adding a new section to chapter 28B.50 RCW; adding a new section to chapter 28C.18 RCW; adding a new section to chapter 49.04 RCW; and creating new sections."

The President declared the question before the Senate to be the motion by Senator Kastama to not adopt the committee striking amendment by the Committee on Economic Development, Trade & Innovation to Engrossed Second Substitute House Bill No. 2227.

The motion by Senator Kastama carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Kastama moved that the following striking amendment by Senator Rockefeller be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. FINDINGS. The legislature finds that the 2009 American recovery and reinvestment act includes new investments in research and development for green industries, renewable energy production, and incentives for installation and use of renewable energy and energy efficiency retrofits. The legislature further finds that state level initiatives include additional incentives for installation of renewable energy and energy efficiency retrofits. These initiatives include new incentives for production of renewable energy that will encourage the state to use renewable energy as well as become a major supplier of renewable energy to the world.

The legislature believes that these investments and initiatives will significantly increase demand for production of renewable energy and installation of energy efficiency retrofits. The legislature recognizes that these demands will cultivate job opportunities for Washington state residents during economic downturns as such investments are particularly valuable during those times. The legislature also finds that the state's residents and economy may be unable to take full advantage of these opportunities if there is a shortage of workers with the skills needed for jobs in renewable energy and energy efficiency.

Further, the legislature finds that the current state and federal economic climate lends itself to the acceleration of the greening of the Washington economy, and presents an opportunity for Washington to take its place as a leader in the green economy of the future. The legislature recognizes that in order to most efficiently and effectively capture and use existing and new funding streams and ensure that Washington does in fact become a leader in the green economy, the use of stimulus funds must be monitored to ensure that local organizations participating in the programs receive the state support they need.

Therefore, the legislature intends that Washington state accelerate the greening of its economy by creating a highly skilled green jobs workforce by emphasizing green jobs skills

within existing education and training funds through the evergreen jobs initiative. The legislature intends to establish the evergreen jobs initiative to ensure that the state's workforce is prepared for the new green economy; the state attracts investment and job creation in the green economy; the state is a net exporter of green industry products and services, with special attention to renewable energy technology and components; and Washington is a national and world leader in the green economy.

To achieve these ends, the evergreen jobs initiative will create a comprehensive and responsive framework to assist Washington in receiving at least a per capita share of federal stimulus funds and to ensure that state and local agencies and organizations receive the institutional support they need to capture and effectively use those funds.

NEW SECTION. Sec. 2. EVERGREEN JOBS INITIATIVE. The Washington state evergreen jobs initiative is established as a comprehensive green economy jobs growth initiative with the goals of:

(1) Creating fifteen thousand new green economy jobs by 2020, with a target of thirty percent of those jobs going to veterans, members of the national guard, and low-income and disadvantaged populations;

(2) Capturing and deploying federal funds in a focused, effective, and coordinated manner;

(3) Preparing the state's workforce to take full advantage of green economy job opportunities and to meet the recruitment and training needs of industry and small businesses;

(4) Attracting private sector investment that will create new and expand existing jobs, with an emphasis on services and products that have a high economic or environmental impact and can be exported domestically and internationally;

(5) Making Washington state a net exporter of green industry products and services, with special attention to renewable energy technology and components;

(6) Empowering local agencies and organizations to recruit green economy businesses and jobs into the state by providing state support and assistance;

(7) Capitalizing on existing partnership agreements in the Washington works plan and the Washington workforce compact; and

(8) Operating in concert with the fourteen guiding principles identified by the department in its Washington state's green economy strategic framework.

NEW SECTION. Sec. 3. EVERGREEN JOBS LEADERSHIP TEAM. The department and the workforce board must create the evergreen jobs leadership team, consisting of, at a minimum, the workforce board, the economic development commission, the state board for community and technical colleges, the employment security department, the Washington state apprenticeship training council, the office of the superintendent of public instruction, labor, business, at least one representative of a local workforce development council, and other agencies or organizations as may be necessary. This leadership team may be an extension of an existing working group. The leadership team shall be chaired by a currently employed full-time equivalent person within the office of financial management designated by the governor as the single point of accountability for all energy and climate change initiatives within state agencies.

NEW SECTION. Sec. 4. EVERGREEN JOBS LEADERSHIP TEAM DUTIES. (1) The department and the workforce board, in consultation with the leadership team, must:

(a) Coordinate efforts across the state to ensure that federal training and education funds are captured and deployed in a focused and effective manner in order to support green economy projects and accomplish the goals of the evergreen jobs initiative;

(b) Accelerate and coordinate efforts by state and local organizations to identify, apply for, and secure all sources of funds, particularly those created by the 2009 American recovery

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and reinvestment act, and to ensure that distributions of funding to local organizations are allocated in a manner that is time-efficient and user-friendly for the local organizations. Local organizations eligible to receive support include but are not limited to:

- (i) Associate development organizations;
- (ii) Workforce development councils;
- (iii) Public utility districts; and
- (iv) Community action agencies;
- (c) Support green economy projects at both the state and local level by developing a process and a framework to provide, at a minimum:
 - (i) Administrative and technical assistance;
 - (ii) Assistance with and expediting of permit processes; and
 - (iii) Priority consideration of opportunities leading to exportable green economy goods and services, including renewable energy technology;
- (d) Coordinate local and state implementation of projects using federal funds to ensure implementation is time-efficient and user-friendly for local organizations;
- (e) Emphasize through both support and outreach efforts, projects that:
 - (i) Have a strong and lasting economic or environmental impact;
 - (ii) Lead to a domestically or internationally exportable good or service, including renewable energy technology;
 - (iii) Create training programs leading to a credential, certificate, or degree in a green economy field;
 - (iv) Strengthen the state's competitiveness in a particular sector or cluster of the green economy;
 - (v) Create employment opportunities for veterans, members of the national guard, and low-income and disadvantaged populations;
 - (vi) Comply with prevailing wage provisions of chapter 39.12 RCW;
 - (vii) Ensure at least fifteen percent of labor hours are performed by apprentices;
- (f) Identify emerging technologies and innovations that are likely to contribute to advancements in the green economy, including the activities in designated innovation partnership zones established in RCW 43.330.270;
- (g) Identify statewide performance metrics for projects receiving agency assistance. Such metrics may include:
 - (i) The number of new green jobs created each year, their wage levels, and, to the extent determinable, the percentage of new green jobs filled by veterans, members of the national guard, and low-income and disadvantaged populations;
 - (ii) The total amount of new federal funding secured, the respective amounts allocated to the state and local levels, and the timeliness of deployment of new funding by state agencies to the local level;
 - (iii) The timeliness of state deployment of funds and support to local organizations; and
 - (iv) If available, the completion rates, time to completion, and training-related placement rates for green economy postsecondary training programs;
- (h) Identify strategies to allocate existing and new funding streams for green economy workforce training programs and education to emphasize those leading to a credential, certificate, or degree in a green economy field;
- (i) Identify and implement strategies to allocate existing and new funding streams for workforce development councils and associate development organizations to increase their effectiveness and efficiency and increase local capacity to respond rapidly and comprehensively to opportunities to attract green jobs to local communities;
- (j) Develop targeting criteria for existing investments that are consistent with the economic development commission's economic development strategy and the goals of this section and sections 8, 9, and 12 of this act; and

(k) Make and support outreach efforts so that residents of Washington, particularly members of target populations, become aware of educational and employment opportunities identified and funded through the evergreen jobs act.

(2) The department and the workforce board, in consultation with the leadership team, must provide semiannual performance reports to the governor and appropriate committees of the legislature on:

- (a) Actual statewide performance based on the performance measures identified in subsection (1)(g) of this section;
 - (b) How the state is emphasizing and supporting projects that lead to a domestically or internationally exportable good or service, including renewable energy technology;
 - (c) A list of projects supported, created, or funded in furtherance of the goals of the evergreen jobs initiative and the actions taken by state and local organizations, including the effectiveness of state agency support provided to local organizations as directed in subsection (1)(b) and (c) of this section;
 - (d) Recommendations for new or expanded financial incentives and comprehensive strategies to:
 - (i) Recruit, retain, and expand green economy industries and small businesses; and
 - (ii) Stimulate research and development of green technology and innovation, which may include designating innovation partnership zones linked to the green economy;
 - (e) Any information that associate development organizations and workforce development councils choose to provide to appropriate legislative committees regarding the effectiveness, timeliness, and coordination of support provided by state agencies under this section and sections 8, 9, and 12 of this act; and
 - (f) Any recommended statutory changes necessary to increase the effectiveness of the evergreen jobs initiative and state responsiveness to local agencies and organizations.
- (3) The definitions, designations, and results of the employment security department's broader labor market research under RCW 43.330.010 shall inform the planning and strategic direction of the department, the state workforce training and education coordinating board, the state board for community and technical colleges, and the higher education coordinating board.
- Sec. 5.** RCW 43.330.010 and 2007 c 322 s 2 are each amended to read as follows:
- DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.
- (1) "Associate development organization" means a local economic development nonprofit corporation that is broadly representative of community interests.
 - (2) "Department" means the department of community, trade, and economic development.
 - (3) "Director" means the director of the department of community, trade, and economic development.
 - (4) "Financial institution" means a bank, trust company, mutual savings bank, savings and loan association, or credit union authorized to do business in this state under state or federal law.
 - (5) "Microenterprise development organization" means a community development corporation, a nonprofit development organization, a nonprofit social services organization or other locally operated nonprofit entity that provides services to low-income entrepreneurs.
 - (6) "Statewide microenterprise association" means a nonprofit entity with microenterprise development organizations as members that serves as an intermediary between the department of community, trade, and economic development and local microenterprise development organizations.
 - (7) "Apprentice" means an apprentice enrolled in an apprenticeship training program approved by the Washington state apprenticeship council.

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(8) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(9) "Labor hours" means the total hours of workers receiving an hourly wage who are directly employed on the site of the project. This includes hours performed by workers employed by the contractor and all subcontractors working on the project but does not include hours worked by foremen, superintendents, and owners.

(10) "Leadership team" means the leadership team created by the department in section 3 of this act.

(11) "State board" means the state board for community and technical colleges created in RCW 28B.50.050.

(12) "Target populations" means:

(a) Entry-level or incumbent workers who are in, or are preparing for, middle or high-wage, high-demand occupations in the green economy;

(b) Dislocated workers in declining industries who may be retrained for middle or high-wage occupations in the green economy;

(c) Eligible veterans or national guard members;

(d) Disadvantaged populations; or

(e) Anyone eligible to participate in the state opportunity grant program under RCW 28B.50.271.

(13) "Workforce board" means the workforce training and education coordinating board created in RCW 28C.18.020.

NEW SECTION. Sec. 6. EVERGREEN JOBS LOGO. The leadership team must develop a logo or sign to indicate a particular project is funded in whole or in part by Washington's evergreen jobs act or other economic recovery efforts. The department and the state board must also adopt rules requiring organizations and each project site receiving funds through the department under section 7 of this act or through the state board under section 10 of this act to prominently display such logo or sign on site and in all written materials and communications.

NEW SECTION. Sec. 7. SKILL AND QUALIFICATIONS IDENTIFICATION. (1) The leadership team, in consultation with the department, the state board, the Washington state apprenticeship and training council, and the office of the superintendent of public instruction, shall identify the necessary skills and qualifications required to perform the energy audits and energy efficiency services authorized under chapter . . . , Laws of 2009 (Engrossed Second Substitute Senate Bill No. 5649) and satisfy the goals of chapter . . . , Laws of 2009 (Substitute Senate Bill No. 5921).

(2) The leadership team, in consultation with the department, the state board, and the workforce board, shall direct the delivery of education and training resource moneys provided in the omnibus appropriations act for the purposes of chapter . . . , Laws of 2009 (Engrossed Second Substitute Senate Bill No. 5649) to meet the demand in energy audit and energy efficiency services, as provided in this subsection. Moneys must be used to fund training programs that satisfy the strategic plan developed under chapter . . . , Laws of 2009 (Substitute Senate Bill No. 5921).

(a) Training resource moneys may be provided to energy audit and energy efficiency services educational programs for the following purposes:

(i) To develop and deploy curricula and training programs in accordance with this section;

(ii) To expand existing high school, community and technical college, journey-level skills improvement and apprenticeship training programs, and community-based training programs providing energy audit and energy efficiency services training;

(iii) To implement new training programs developed under the terms of this section;

(iv) To supplement internship, preapprenticeship, and apprenticeship programs using curricula developed under this section;

(v) To recruit people into these training programs; and

(vi) For other training activities identified by the department to supplement and expand the skills of the existing workforce.

(b) The department must, in consultation with the workforce board and the leadership team, prioritize educational programs that:

(i) Provide convincing evidence that they are able to provide the requisite skills education and training expeditiously; or

(ii) Provide skills education and training services to underserved and disadvantaged communities in the state, in accordance with this section. This may include, but is not limited to, at-risk youth seeking employment pathways out of poverty and into economic self-sufficiency. The department and workforce board shall consult with the employment security department to create a strategy to ensure that the workers who receive training under these programs are provided with the type of employment opportunities contemplated by this chapter.

NEW SECTION. Sec. 8. A new section is added to chapter 28C.18 RCW to read as follows:

GREEN INDUSTRY SKILL PANELS. (1) The legislature directs the board to create and pilot green industry skill panels. These panels shall consist of business representatives from industry sectors related to clean energy, labor unions representing workers in those industries or labor affiliates administering state-approved, joint apprenticeship programs or labor-management partnership programs that train workers for these industries, state and local veterans agencies, employer associations, educational institutions, and local workforce development councils within the region that the panels propose to operate, and other key stakeholders as determined by the applicant. Any of these stakeholder organizations are eligible to receive grants under this section and serve as the intermediary that convenes and leads the panel. Panel applicants must provide labor market and industry analysis that demonstrates high demand, or demand of strategic importance to the development of the state's clean energy economy as identified in this section, for middle or high-wage occupations, or occupations that are part of career pathways to the same, within the relevant industry sector. The panel shall, in consultation with the department and the leadership team:

(a) Conduct labor market and industry analyses, in consultation with the employment security department, and drawing on the findings of its research when available;

(b) Recommend strategies to meet the recruitment and training needs of the industry and small businesses; and

(c) Recommend strategies to leverage and align other public and private funding sources.

(2) The board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts may be conducted in partnership with local workforce development councils.

(3) The definitions in RCW 43.330.010 apply to this section.

NEW SECTION. Sec. 9. A new section is added to chapter 28B.50 RCW to read as follows:

CURRICULUM DEVELOPMENT AND FUNDING. (1) The state board shall work with the leadership team, the Washington state apprenticeship and training council, and the office of the superintendent of public instruction to jointly develop, by June 30, 2010, curricula and training programs, to include on-the-job training, classroom training, and safety and health training, for the development of the skills and

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qualifications identified by the department of community, trade, and economic development under section 7 of this act.

(2) The board shall target a portion of any federal stimulus funding received to ensure commensurate capacity for high employer-demand programs of study developed under this section. To that end, the state board must coordinate with the department, the leadership team, the workforce board, or another appropriate state agency in the application for and receipt of any funding that may be made available through the federal youthbuild program, workforce investment act, job corps, or other relevant federal programs.

(3) The board shall provide an interim report to the appropriate committees of the legislature by December 1, 2011, and a final report by December 1, 2013, detailing the effectiveness of, and any recommendations for improving, the worker training curricula and programs established in this section.

(4) Existing curricula and training programs or programs provided by community and technical colleges in the state developed under this section must be recognized as programs of study under RCW 28B.50.273.

(5) Subject to available funding, the board may grant enrollment priority to persons who qualify for a waiver under RCW 28B.15.522 and who enroll in curricula and training programs provided by community or technical colleges in the state that have been developed in accordance with this section.

(6) The college board may prioritize workforce training programs that lead to a credential, certificate, or degree in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy including clean energy, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs, if the programs meet minimum criteria for identification as a high-demand program of study as defined by the state board for community and technical colleges, however any additional community and technical college high-demand funding authorized for the 2009-2011 fiscal biennium and thereafter may be subject to prioritization; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be conducted in partnership with local workforce development councils.

(7) The definitions in RCW 43.330.010 apply to this section and section 10 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 28B.50 RCW to read as follows:

EVERGREEN JOBS TRAINING ACCOUNT. The evergreen jobs training account is created in the state treasury. Funds deposited to the account may include gifts, grants, or endowments from public or private sources, in trust or otherwise. Moneys from the account must be used to supplement the state opportunity grant program established under RCW 28B.50.271. All receipts from appropriations directed to the account must be deposited into the account. Expenditures from the account may be used only for the activities identified in this section. The state board, in consultation with the department and the leadership team, may authorize expenditures from the account but must distribute grants from the account on a competitive basis. Grant funds from the evergreen jobs training account should be used when other public or private funds are insufficient or unavailable.

(1) These grant funds may be used for, but are not limited to uses for:

- (a) Curriculum development;
- (b) Transitional jobs strategies for dislocated workers in declining industries who may be retrained for high-wage occupations in green industries;
- (c) Workforce education to target populations;

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(d) Adult basic and remedial education as necessary linked to occupation skills training; and

(e) Coordinated outreach efforts by institutions of higher education and workforce development councils.

(2) These grant funds may not be used for student assistance and support services available through the state opportunity grant program under RCW 28B.50.271.

(3) Applicants eligible to receive these grants may be any organization or a partnership of organizations that has demonstrated expertise in:

(a) Implementing effective education and training programs that meet industry demand; and

(b) Recruiting and supporting, to successful completion of those training programs carried out under these grants, the target populations of workers.

(4) In awarding grants from the evergreen jobs training account, the state board shall give priority to applicants that demonstrate the ability to:

(a) Use labor market and industry analysis developed by the employment security department and green industry skill panels in the design and delivery of the relevant education and training program, and otherwise use strategies developed by green industry skill panels;

(b) Leverage and align existing public programs and resources and private resources toward the goal of recruiting, supporting, educating, and training target populations of workers;

(c) Work collaboratively with other relevant stakeholders in the regional economy;

(d) Link adult basic and remedial education, where necessary, with occupation skills training;

(e) Involve employers and, where applicable, labor unions in the determination of relevant skills and competencies and, where relevant, the validation of career pathways; and

(f) Ensure that supportive services, where necessary, are integrated with education and training and are delivered by organizations with direct access to and experience with the targeted population of workers.

NEW SECTION. Sec. 11. A new section is added to chapter 50.12 RCW to read as follows:

LABOR MARKET RESEARCH. The employment security department, in consultation with the department, the workforce board, and the leadership team must take the following actions:

(1) Conduct and update labor market research on a biennial basis to analyze the current public and private labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of public and private green economy employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries;

(2) Propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy; and

(3) Define which family-sustaining wage and benefits ranges within green economy industries will be considered middle or high-wage occupations and occupations that are part of career pathways to the same.

NEW SECTION. Sec. 12. A new section is added to chapter 49.04 RCW to read as follows:

APPRENTICESHIP PROGRAMS. (1) The council must evaluate the potential of existing apprenticeship and training programs that would produce workers with the skills needed to conduct energy audits and provide energy efficiency services and deliver its findings to the department of community, trade, and economic development, the leadership team, and the appropriate committees of the legislature as soon as possible, but no later than January 18, 2010.

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(2) The council may prioritize workforce training programs that lead to apprenticeship programs in green economy jobs. For purposes of this section, green economy jobs include those in the primary industries of a green economy, including clean energy, the forestry industry, high-efficiency building, green transportation, and environmental protection. Prioritization efforts may include but are not limited to: (a) Prioritization of the use of high employer-demand funding for workforce training programs in green economy jobs; (b) increased outreach efforts to public utilities, education, labor, government, and private industry to develop tailored, green job training programs; and (c) increased outreach efforts to target populations. Outreach efforts shall be conducted in partnership with local workforce development councils.

(3) The definitions in RCW 43.330.010 apply to this section.

NEW SECTION. Sec. 13. PRECLUSION. Nothing in this act may be construed as a requirement for any agency to gain approval from another before allocating funding to the local level. Nothing in this act may be construed as precluding nonstate agencies from directly applying for and securing funds from the federal government. Nothing in this act may be construed as allowing agencies to require additional reporting or approval processes from local organizations or to impose unfunded mandates on local organizations.

NEW SECTION. Sec. 14. REPEALER. RCW 43.330.310 (Comprehensive green economy jobs growth initiative--Establishment--Green industries jobs training account--Creation) and 2008 c 14 s 9 are each repealed.

NEW SECTION. Sec. 15. SHORT TITLE. This act may be known and cited as the evergreen jobs act.

NEW SECTION. Sec. 16. Sections 2 through 4, 6, and 7 of this act are each added to chapter 43.330 RCW.

NEW SECTION. Sec. 17. Captions used in this act are not any part of the law."

MOTION

Senator Kastama moved that the following amendment by Senator Rockefeller to the striking amendment be adopted.

On page 8, after line 20, strike all text through line 29, and insert:

(2) The leadership team, in consultation with the department, the state board, and the workforce board, shall direct the delivery of education and training resource moneys, provided in the omnibus appropriations act, to establish workforce training and apprenticeships programs to meet the demand for workers trained in energy audit and energy efficiency services and to serve the programs established in chapter . . . , Laws of 2009 (Engrossed Second Substitute Senate Bill No. 5649). Moneys must be used to fund training programs that satisfy the strategic plan developed under chapter . . . , Laws of 2009 (Substitute Senate Bill No. 5921).

Senator Kastama spoke in favor of adoption of the amendment to the striking amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Rockefeller on page 8, after line 20 to the striking amendment to Engrossed Second Substitute House Bill No. 2227.

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

The President declared the question before the Senate to be the adoption of the striking amendment by Senator Rockefeller as amended to Engrossed Second Substitute House Bill No. 2227.

The motion by Senator Kastama carried and the 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 "jobs;" strike the remainder of the title and insert "amending RCW 43.330.010; adding new sections to chapter 43.330 RCW; adding a new section to chapter 28C.18 RCW; adding new sections to chapter 28B.50 RCW; adding a new section to chapter 50.12 RCW; adding a new section to chapter 49.04 RCW; creating new sections; and repealing RCW 43.330.310."

MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 2227 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 Kastama 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. 2227 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2227 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 34; Nays, 14; Absent, 0; Excused, 1.

Voting yea: Senators Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hobbs, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Sheldon, Shin, Swecker and Tom

Voting nay: Senators Becker, Delvin, Hewitt, Holmquist, Honeyford, King, McCaslin, Morton, Parlette, Pflug, Roach, Schoesler, Stevens and Zarelli

Excused: Senator Rockefeller

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2227 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. 2287, by House Committee on Ways & Means (originally sponsored by Representatives Kessler and Van De Wege)

Requiring state agencies to use one hundred percent recycled content paper. Revised for 1st Substitute: Concerning paper conservation.

The measure was read the second time.

MOTION

Senator Fairley moved that the following committee striking amendment by the Committee on Government Operations & Elections be adopted.

Strike everything after the enacting clause and insert the following:

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NEW SECTION. **Sec. 1.** A new section is added to chapter 70.95 RCW to read as follows:

By July 1, 2010, each state agency shall develop and implement:

(1) A paper conservation program. Each state agency shall endeavor to conserve paper by at least thirty percent of their current paper use.

(2) A paper recycling program to encourage recycling of all paper products with the goal of recycling one hundred percent of all copy and printing paper in all buildings with twenty-five employees or more.

(3) For the purposes of this section, "state agencies" include, but are not limited to, colleges, universities, offices of elected and appointed officers, the supreme court, court of appeals, and administrative departments of state government.

NEW SECTION. **Sec. 2.** A new section is added to chapter 43.19A RCW to read as follows:

(1) By December 31, 2009, all state agencies shall purchase one hundred percent recycled content white cut sheet bond paper used in office printers and copiers. State agencies are encouraged to give priority to purchasing from companies that produce paper in facilities that generate energy from a renewable energy source.

(2) State agencies that utilize office printers and copiers that, after reasonable attempts, cannot be calibrated to utilize such paper referenced in subsection (1) of this section, must for those models of equipment:

(a) Purchase paper at the highest recycled content that can be utilized efficiently by the copier or printer;

(b) At the time of lease renewal or at the end of the life-cycle, either lease or purchase a model that will efficiently utilize one hundred percent recycled content white cut sheet bond paper;

(3) Printed projects that require the use of high volume production inserters or high-speed digital devices, such as those used by the state printer, department of information services, and the department of general administration, are not required to meet the one hundred percent recycled content white cut sheet bond paper standard, but must utilize the highest recycled content that can be utilized efficiently by such equipment and not impede the business of agencies.

(4) The state printer, department of general administration, and department of information services shall work together to identify for use by agencies one hundred percent recycled paper products that process efficiently through high-speed production equipment and do not impede the business of agencies.

Sec. 3. RCW 43.19A.020 and 2001 c 77 s 1 are each amended to read as follows:

(1) The federal product standards, adopted under 42 U.S.C. Sec. 6962(e) as it exists on July 1, 2001, are adopted as the minimum standards for the state of Washington. These standards shall be implemented for at least the products listed in this subsection, unless the director finds that a different standard would significantly increase recycled product availability or competition.

(a) ~~((Paper and paper products;~~
~~(b))~~ Organic recovered materials;

~~((c))~~ (b) Latex paint products;

~~((d))~~ (c) Products for lower value uses containing recycled plastics;

~~((e))~~ (d) Retread and remanufactured tires;

~~((f))~~ (e) Lubricating oils;

~~((g))~~ (f) Automotive batteries;

~~((h))~~ (g) Building products and materials;

~~((i))~~ (h) Panelboard; and

~~((j))~~ (i) Compost products.

(2) By July 1, 2001, the director shall adopt product standards for strawboard manufactured using as an ingredient straw that is produced as a by-product in the production of cereal grain or turf or grass seed and product standards for products made from strawboard.

(3) The standards required by this section shall be applied to recycled product purchasing by the department, other state agencies, and state postsecondary educational institutions. The standards may be adopted or applied by any other local government in product procurement. The standards shall provide for exceptions under appropriate circumstances to allow purchases of recycled products that do not meet the minimum content requirements of the standards.

Sec. 4. RCW 43.19A.050 and 1996 c 198 s 2 are each amended to read as follows:

The department shall prepare a strategy to increase purchases of recycled-content products by the department and all state agencies, including higher education institutions. The strategy shall include purchases from public works contracts. The strategy shall address the purchase of plastic products, retread and remanufactured tires, motor vehicle lubricants, latex paint, and lead acid batteries having recycled content. In addition, the strategy shall incorporate actions to achieve the following purchase level goals of ~~((recycled content paper and))~~ compost products:

~~((1))~~ Paper products as a percentage of the total dollar amount purchased on an annual basis:

~~(a)~~ At least sixty percent by 1996;

~~(b)~~ At least seventy percent by 1997;

~~(c)~~ At least eighty percent by 1998.

~~(2))~~ Compost products as a percentage of the total dollar amount on an annual basis:

~~((a))~~ (1) At least forty percent by 1996;

~~((b))~~ (2) At least sixty percent by 1997;

~~((c))~~ (3) At least eighty percent by 1998.

Sec. 5. RCW 43.78.170 and 1996 c 198 s 3 are each amended to read as follows:

The public printer shall ~~((take all actions consistent with the plan under RCW 43.19A.050 to ensure that seventy-five percent or more of the total dollar amount of printing paper stock used by the printer is recycled content paper by January 1, 1997, and ninety percent or more of the total dollar amount of printing paper stock used by the printer is recycled content paper by January 1, 1999))~~ use one hundred percent recycled copy and printing paper for all jobs printed on white copy and printing paper."

Senator Fairley 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 Government Operations & Elections to Substitute House Bill No. 2287.

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 "paper;" strike the remainder of the title and insert "amending RCW 43.19A.020, 43.19A.050, and 43.78.170; adding a new section to chapter 70.95 RCW; and adding a new section to chapter 43.19A RCW."

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MOTION

On motion of Senator Fairley, the rules were suspended, Substitute House Bill No. 2287 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 Roach spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Delvin: "Would Senator Hargrove yield to a question? Does it cover toilet paper?"

Senator Hargrove: "No, this is actually print paper that goes through copy machines."

Senator Roach spoke in favor of passage of the bill.

POINT OF INQUIRY

Senator Carrell: "Would Senator Hargrove yield to a question? Is there a provision in this bill that when the price of paper such you have to pay somebody to haul it away that we don't have to use recycled paper. It doesn't make any sense to you know, to cut off our nose to spite our face so I like the idea but the question is what about in periods of time like now where you know has no value?"

Senator Hargrove: "This is not requiring us to recycle our paper. This is requiring us to buy one hundred percent post consumer waste paper. Ok, this is produced at the Grays Harbor paper mill in Grays Harbor with like I said, green power from co-gen and so this is going to be a big benefit to them. I don't even think there's another mill in the state that or any place close so you know, I think this is going to be a big benefit to our area but certainly to the state all together and this is about buying the recycled paper and we'll be glad to get you a ream of it and see how it works. So, but any company that produces the one hundred percent recycle obviously be eligible."

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2287 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2287 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 1; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senator Delvin

Excused: Senator Rockefeller

SUBSTITUTE HOUSE BILL NO. 2287 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 SUBSTITUTE HOUSE BILL NO. 2035, by House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Klippert, O'Brien, Shea, Haler, Roach, Armstrong, Pearson, McCune, Condotta, Orwall, Ross, Hurst, Smith, Kristiansen, Kretz, Orcutt, Kelley, Warnick and Angel)

Requiring registered sex and kidnapping offenders to submit information regarding any e-mail addresses and any web sites they create or operate.

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 not adopted.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 9A.44.130 and 2006 c 129 s 2, 2006 c 128 s 2, 2006 c 127 s 2, and 2006 c 126 s 2 are each reenacted and amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

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(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) ~~((The))~~ A person required to register under this section shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

~~(b) ((Any)) If the person ((who)) lacks a fixed residence, the person shall provide ((the following)) information ((when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x))) as to where he or she plans to stay, instead of the person's complete residential address.~~

(c) If the person has not completed the terms of his or her sentence and received a certificate of discharge under RCW 9.94A.637 or 9.96.050, or an equivalent discharge from the court of another state, law enforcement may request and the person shall be required to provide his or her electronic mail address or any other internet communication name or identity information including, but not limited to, instant message, chat, or social networking names or identities, if any; and the uniform resource locator of any personal web site created or operated by the person.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term

"conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping

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offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) **OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED.** Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) **OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS.** Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health

services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.**

Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days

to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would

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be classified as a kidnapping offense under this subsection (10)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(13) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

Sec. 2. RCW 9A.44.130 and 2008 c 230 s 1 are each amended to read as follows:

(1)(a) Any adult or juvenile residing whether or not the person has a fixed residence, or who is a student, is employed, or carries on a vocation in this state who has been found to have committed or has been convicted of any sex offense or kidnapping offense, or who has been found not guilty by reason of insanity under chapter 10.77 RCW of committing any sex offense or kidnapping offense, shall register with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation, or as otherwise specified in this section. Where a person required to register under this section is in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility as a result of a sex offense or kidnapping offense, the person shall also register at the time of release from custody with an official designated by the agency that has jurisdiction over the person.

(b) Any adult or juvenile who is required to register under (a) of this subsection:

(i) Who is attending, or planning to attend, a public or private school regulated under Title 28A RCW or chapter 72.40 RCW shall, within ten days of enrolling or prior to arriving at

the school to attend classes, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the school, and the sheriff shall promptly notify the principal of the school;

(ii) Who is admitted to a public or private institution of higher education shall, within ten days of enrolling or by the first business day after arriving at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's intent to attend the institution;

(iii) Who gains employment at a public or private institution of higher education shall, within ten days of accepting employment or by the first business day after commencing work at the institution, whichever is earlier, notify the sheriff for the county of the person's residence of the person's employment by the institution; or

(iv) Whose enrollment or employment at a public or private institution of higher education is terminated shall, within ten days of such termination, notify the sheriff for the county of the person's residence of the person's termination of enrollment or employment at the institution.

(c) Persons required to register under this section who are enrolled in a public or private institution of higher education on June 11, 1998, or a public or private school regulated under Title 28A RCW or chapter 72.40 RCW on September 1, 2006, must notify the county sheriff immediately.

(d) The sheriff shall notify the school's principal or institution's department of public safety and shall provide that department with the same information provided to a county sheriff under subsection (3) of this section.

(e)(i) A principal receiving notice under this subsection must disclose the information received from the sheriff under (b) of this subsection as follows:

(A) If the student who is required to register as a sex offender is classified as a risk level II or III, the principal shall provide the information received to every teacher of any student required to register under (a) of this subsection and to any other personnel who, in the judgment of the principal, supervises the student or for security purposes should be aware of the student's record;

(B) If the student who is required to register as a sex offender is classified as a risk level I, the principal shall provide the information received only to personnel who, in the judgment of the principal, for security purposes should be aware of the student's record.

(ii) Any information received by a principal or school personnel under this subsection is confidential and may not be further disseminated except as provided in RCW 28A.225.330, other statutes or case law, and the family and educational and privacy rights act of 1994, 20 U.S.C. Sec. 1232g et seq.

(2) This section may not be construed to confer any powers pursuant to RCW 4.24.550 upon the public safety department of any public or private school or institution of higher education.

(3)(a) ~~((The))~~ A person required to register under this section shall provide the following information when registering: (i) Name; (ii) complete residential address; (iii) date and place of birth; (iv) place of employment; (v) crime for which convicted; (vi) date and place of conviction; (vii) aliases used; (viii) social security number; (ix) photograph; and (x) fingerprints.

(b) ~~((Any))~~ If the person ~~((who))~~ lacks a fixed residence, the person shall provide ((the following)) information ((when registering: (i) Name; (ii) date and place of birth; (iii) place of employment; (iv) crime for which convicted; (v) date and place of conviction; (vi) aliases used; (vii) social security number; (viii) photograph; (ix) fingerprints; and (x)) as to where he or

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she plans to stay, instead of the person's complete residential address.

(c) If the person has not completed the terms of his or her sentence and received a certificate of discharge under RCW 9.94A.637 or 9.96.050, or an equivalent discharge from the court of another state, law enforcement may request and the person shall be required to provide his or her electronic mail address or any other internet communication name or identity information including, but not limited to, instant message, chat, or social networking names or identities, if any; and the uniform resource locator of any personal web site created or operated by the person.

(4)(a) Offenders shall register with the county sheriff within the following deadlines. For purposes of this section the term "conviction" refers to adult convictions and juvenile adjudications for sex offenses or kidnapping offenses:

(i) OFFENDERS IN CUSTODY. (A) Sex offenders who committed a sex offense on, before, or after February 28, 1990, and who, on or after July 28, 1991, are in custody, as a result of that offense, of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, and (B) kidnapping offenders who on or after July 27, 1997, are in custody of the state department of corrections, the state department of social and health services, a local division of youth services, or a local jail or juvenile detention facility, must register at the time of release from custody with an official designated by the agency that has jurisdiction over the offender. The agency shall within three days forward the registration information to the county sheriff for the county of the offender's anticipated residence. The offender must also register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The agency that has jurisdiction over the offender shall provide notice to the offender of the duty to register. Failure to register at the time of release and within twenty-four hours of release constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

When the agency with jurisdiction intends to release an offender with a duty to register under this section, and the agency has knowledge that the offender is eligible for developmental disability services from the department of social and health services, the agency shall notify the division of developmental disabilities of the release. Notice shall occur not more than thirty days before the offender is to be released. The agency and the division shall assist the offender in meeting the initial registration requirement under this section. Failure to provide such assistance shall not constitute a defense for any violation of this section.

(ii) OFFENDERS NOT IN CUSTODY BUT UNDER STATE OR LOCAL JURISDICTION. Sex offenders who, on July 28, 1991, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 28, 1991. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the indeterminate sentence review board or under the department of corrections' active supervision, as defined by the department of corrections, the state department of social and health services, or a local division of youth services, for

kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(ii) as of July 28, 1991, or a kidnapping offender required to register as of July 27, 1997, shall not relieve the offender of the duty to register or to reregister following a change in residence. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iii) OFFENDERS UNDER FEDERAL JURISDICTION. Sex offenders who, on or after July 23, 1995, and kidnapping offenders who, on or after July 27, 1997, as a result of that offense are in the custody of the United States bureau of prisons or other federal or military correctional agency for sex offenses committed before, on, or after February 28, 1990, or kidnapping offenses committed on, before, or after July 27, 1997, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. Sex offenders who, on July 23, 1995, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for sex offenses committed before, on, or after February 28, 1990, must register within ten days of July 23, 1995. Kidnapping offenders who, on July 27, 1997, are not in custody but are under the jurisdiction of the United States bureau of prisons, United States courts, United States parole commission, or military parole board for kidnapping offenses committed before, on, or after July 27, 1997, must register within ten days of July 27, 1997. A change in supervision status of a sex offender who was required to register under this subsection (4)(a)(iii) as of July 23, 1995, or a kidnapping offender required to register as of July 27, 1997 shall not relieve the offender of the duty to register or to reregister following a change in residence, or if the person is not a resident of Washington, the county of the person's school, or place of employment or vocation. The obligation to register shall only cease pursuant to RCW 9A.44.140.

(iv) OFFENDERS WHO ARE CONVICTED BUT NOT CONFINED. Sex offenders who are convicted of a sex offense on or after July 28, 1991, for a sex offense that was committed on or after February 28, 1990, and kidnapping offenders who are convicted on or after July 27, 1997, for a kidnapping offense that was committed on or after July 27, 1997, but who are not sentenced to serve a term of confinement immediately upon sentencing, shall report to the county sheriff to register immediately upon completion of being sentenced.

(v) OFFENDERS WHO ARE NEW RESIDENTS OR RETURNING WASHINGTON RESIDENTS. Sex offenders and kidnapping offenders who move to Washington state from another state or a foreign country that are not under the jurisdiction of the state department of corrections, the indeterminate sentence review board, or the state department of social and health services at the time of moving to Washington, must register within three business days of establishing residence or reestablishing residence if the person is a former Washington resident. The duty to register under this subsection applies to sex offenders convicted under the laws of another state or a foreign country, federal or military statutes for offenses committed before, on, or after February 28, 1990, or Washington state for offenses committed before, on, or after February 28, 1990, and to kidnapping offenders convicted under the laws of another state or a foreign country, federal or military statutes, or Washington state for offenses committed before, on, or after July 27, 1997. Sex offenders and kidnapping offenders

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from other states or a foreign country who, when they move to Washington, are under the jurisdiction of the department of corrections, the indeterminate sentence review board, or the department of social and health services must register within twenty-four hours of moving to Washington. The agency that has jurisdiction over the offender shall notify the offender of the registration requirements before the offender moves to Washington.

(vi) **OFFENDERS FOUND NOT GUILTY BY REASON OF INSANITY.** Any adult or juvenile who has been found not guilty by reason of insanity under chapter 10.77 RCW of (A) committing a sex offense on, before, or after February 28, 1990, and who, on or after July 23, 1995, is in custody, as a result of that finding, of the state department of social and health services, or (B) committing a kidnapping offense on, before, or after July 27, 1997, and who on or after July 27, 1997, is in custody, as a result of that finding, of the state department of social and health services, must register within twenty-four hours from the time of release with the county sheriff for the county of the person's residence. The state department of social and health services shall provide notice to the adult or juvenile in its custody of the duty to register. Any adult or juvenile who has been found not guilty by reason of insanity of committing a sex offense on, before, or after February 28, 1990, but who was released before July 23, 1995, or any adult or juvenile who has been found not guilty by reason of insanity of committing a kidnapping offense but who was released before July 27, 1997, shall be required to register within twenty-four hours of receiving notice of this registration requirement. The state department of social and health services shall make reasonable attempts within available resources to notify sex offenders who were released before July 23, 1995, and kidnapping offenders who were released before July 27, 1997. Failure to register within twenty-four hours of release, or of receiving notice, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(vii) **OFFENDERS WHO LACK A FIXED RESIDENCE.** Any person who lacks a fixed residence and leaves the county in which he or she is registered and enters and remains within a new county for twenty-four hours is required to register with the county sheriff not more than twenty-four hours after entering the county and provide the information required in subsection (3)(b) of this section.

(viii) **OFFENDERS WHO LACK A FIXED RESIDENCE AND WHO ARE UNDER SUPERVISION.** Offenders who lack a fixed residence and who are under the supervision of the department shall register in the county of their supervision.

(ix) **OFFENDERS WHO MOVE TO, WORK, CARRY ON A VOCATION, OR ATTEND SCHOOL IN ANOTHER STATE.** Offenders required to register in Washington, who move to another state, or who work, carry on a vocation, or attend school in another state shall register a new address, fingerprints, and photograph with the new state within ten days after establishing residence, or after beginning to work, carry on a vocation, or attend school in the new state. The person must also send written notice within ten days of moving to the new state or to a foreign country to the county sheriff with whom the person last registered in Washington state. The county sheriff shall promptly forward this information to the Washington state patrol.

(b) Failure to register within the time required under this section constitutes a per se violation of this section and is punishable as provided in subsection (11) of this section. The county sheriff shall not be required to determine whether the person is living within the county.

(c) An arrest on charges of failure to register, service of an information, or a complaint for a violation of this section, or arraignment on charges for a violation of this section, constitutes actual notice of the duty to register. Any person charged with the crime of failure to register under this section who asserts as a defense the lack of notice of the duty to register shall register immediately following actual notice of the duty through arrest, service, or arraignment. Failure to register as required under this subsection (4)(c) constitutes grounds for filing another charge of failing to register. Registering following arrest, service, or arraignment on charges shall not relieve the offender from criminal liability for failure to register prior to the filing of the original charge.

(d) The deadlines for the duty to register under this section do not relieve any sex offender of the duty to register under this section as it existed prior to July 28, 1991.

(5)(a) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send signed written notice of the change of address to the county sheriff within seventy-two hours of moving. If any person required to register pursuant to this section moves to a new county, the person must send signed written notice of the change of address at least fourteen days before moving to the county sheriff in the new county of residence and must register with that county sheriff within twenty-four hours of moving. The person must also send signed written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered. The county sheriff with whom the person last registered shall promptly forward the information concerning the change of address to the county sheriff for the county of the person's new residence. Upon receipt of notice of change of address to a new state, the county sheriff shall promptly forward the information regarding the change of address to the agency designated by the new state as the state's offender registration agency.

(b) It is an affirmative defense to a charge that the person failed to send a notice at least fourteen days in advance of moving as required under (a) of this subsection that the person did not know the location of his or her new residence at least fourteen days before moving. The defendant must establish the defense by a preponderance of the evidence and, to prevail on the defense, must also prove by a preponderance that the defendant sent the required notice within twenty-four hours of determining the new address.

(6)(a) Any person required to register under this section who lacks a fixed residence shall provide signed written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence. The notice shall include the information required by subsection (3)(b) of this section, except the photograph and fingerprints. The county sheriff may, for reasonable cause, require the offender to provide a photograph and fingerprints. The sheriff shall forward this information to the sheriff of the county in which the person intends to reside, if the person intends to reside in another county.

(b) A person who lacks a fixed residence must report weekly, in person, to the sheriff of the county where he or she is registered. The weekly report shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. The county sheriff's office may require the person to list the locations where the person has stayed during the last seven days. The lack of a fixed residence is a factor that may be considered in determining an offender's risk level and shall

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make the offender subject to disclosure of information to the public at large pursuant to RCW 4.24.550.

(c) If any person required to register pursuant to this section does not have a fixed residence, it is an affirmative defense to the charge of failure to register, that he or she provided written notice to the sheriff of the county where he or she last registered within forty-eight hours excluding weekends and holidays after ceasing to have a fixed residence and has subsequently complied with the requirements of subsections (4)(a)(vii) or (viii) and (6) of this section. To prevail, the person must prove the defense by a preponderance of the evidence.

(7) All offenders who are required to register pursuant to this section who have a fixed residence and who are designated as a risk level II or III must report, in person, every ninety days to the sheriff of the county where he or she is registered. Reporting shall be on a day specified by the county sheriff's office, and shall occur during normal business hours. An offender who complies with the ninety-day reporting requirement with no violations for a period of at least five years in the community may petition the superior court to be relieved of the duty to report every ninety days. The petition shall be made to the superior court in the county where the offender resides or reports under this section. The prosecuting attorney of the county shall be named and served as respondent in any such petition. The court shall relieve the petitioner of the duty to report if the petitioner shows, by a preponderance of the evidence, that the petitioner has complied with the reporting requirement for a period of at least five years and that the offender has not been convicted of a criminal violation of this section for a period of at least five years, and the court determines that the reporting no longer serves a public safety purpose. Failure to report, as specified, constitutes a violation of this section and is punishable as provided in subsection (11) of this section.

(8) A sex offender subject to registration requirements under this section who applies to change his or her name under RCW 4.24.130 or any other law shall submit a copy of the application to the county sheriff of the county of the person's residence and to the state patrol not fewer than five days before the entry of an order granting the name change. No sex offender under the requirement to register under this section at the time of application shall be granted an order changing his or her name if the court finds that doing so will interfere with legitimate law enforcement interests, except that no order shall be denied when the name change is requested for religious or legitimate cultural reasons or in recognition of marriage or dissolution of marriage. A sex offender under the requirement to register under this section who receives an order changing his or her name shall submit a copy of the order to the county sheriff of the county of the person's residence and to the state patrol within five days of the entry of the order.

(9) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints. A photograph may be taken at any time to update an individual's file.

(10) For the purpose of RCW 9A.44.130, 10.01.200, 43.43.540, 70.48.470, and 72.09.330:

(a) "Sex offense" means:

(i) Any offense defined as a sex offense by RCW 9.94A.030;

(ii) Any violation under RCW 9A.44.096 (sexual misconduct with a minor in the second degree);

(iii) Any violation under RCW 9.68A.090 (communication with a minor for immoral purposes);

(iv) Any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a sex offense under this subsection; and

(v) Any gross misdemeanor that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a sex offense under RCW 9.94A.030 or this subsection.

(b) "Kidnapping offense" means: (i) The crimes of kidnapping in the first degree, kidnapping in the second degree, and unlawful imprisonment, as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent; (ii) any offense that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit an offense that is classified as a kidnapping offense under this subsection (10)(b); and (iii) any federal or out-of-state conviction for an offense that under the laws of this state would be classified as a kidnapping offense under this subsection (10)(b).

(c) "Employed" or "carries on a vocation" means employment that is full-time or part-time for a period of time exceeding fourteen days, or for an aggregate period of time exceeding thirty days during any calendar year. A person is employed or carries on a vocation whether the person's employment is financially compensated, volunteered, or for the purpose of government or educational benefit.

(d) "Student" means a person who is enrolled, on a full-time or part-time basis, in any public or private educational institution. An educational institution includes any secondary school, trade or professional institution, or institution of higher education.

(11)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class B felony if the crime for which the individual was convicted was a felony sex offense as defined in subsection (10)(a) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony sex offense as defined in subsection (10)(a) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(12)(a) A person who knowingly fails to comply with any of the requirements of this section is guilty of a class C felony if the crime for which the individual was convicted was a felony kidnapping offense as defined in subsection (10)(b) of this section or a federal or out-of-state conviction for an offense that under the laws of this state would be a felony kidnapping offense as defined in subsection (10)(b) of this section.

(b) If the crime for which the individual was convicted was other than a felony or a federal or out-of-state conviction for an offense that under the laws of this state would be other than a felony, violation of this section is a gross misdemeanor.

(13) Except as may otherwise be provided by law, nothing in this section shall impose any liability upon a peace officer, including a county sheriff, or law enforcement agency, for failing to release information authorized under this section.

NEW SECTION. Sec. 3. If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2009, in the omnibus appropriations act, this act is null and void.

NEW SECTION. Sec. 4. Section 2 of this act takes effect ninety days after adjournment sine die of the 2010 legislative session.

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NEW SECTION. Sec. 5. Section 1 of this act expires ninety days after adjournment sine die of the 2010 legislative session."

On page 1, line 3 of the title, after "operate;" strike the remainder of the title and insert "amending RCW 9A.44.130; reenacting and amending RCW 9A.44.130; creating a new section; providing an effective date; and providing an expiration date."

The President declared the question before the Senate to be the motion by Senator Hargrove to not adopt the committee striking amendment by the Committee on Human Services & Corrections to Engrossed Substitute House Bill No. 2035.

The motion by Senator Hargrove carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Hargrove moved that the following striking amendment by Senators Hargrove and Stevens be adopted:

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** 2008 c 230 s 4 (uncodified) is amended to read as follows:

(1) The sex offender policy board, as created by chapter . . . (Substitute Senate Bill No. 6596), Laws of 2008, shall review and make recommendations for changes to the statutory requirements relating to sex offender and kidnapping offender registration and notification. The review and recommendations shall include, but are not limited to:

(a) The appropriate class of felony and sentencing designations for a conviction of the failure to register;

(b) The appropriate groups and classes of adult offenders who should be required to register;

(c) The appropriate groups and classes of juvenile offenders who should be required to register;

(d) When a sex offender or kidnapping offender should be relieved of registration or notification requirements and the process for termination of those obligations; ~~(and)~~

(e) Simplification of the statutory language to allow the department of corrections, law enforcement, and offenders to more easily identify registration and notification requirements; and

(f) The appropriate groups and classes of adult, and juvenile, if any, offenders who should be required to submit their electronic mail address or any other internet communication name or identity including, but not limited to, instant message, chat, or social networking names or identities, and the uniform resource locator of any personal web site created or operated by the person, for purposes of monitoring potentially inappropriate online behavior, and the appropriate sanctions for failure to provide such information in a timely and accurate manner, as well as any other issues associated with establishing and implementing such a requirement.

(2) In formulating its recommendations, the board shall review the experience of other jurisdictions and any available evidence-based research to ensure that its recommendations have the maximum impact on public safety.

(3) The board shall report to the governor and the relevant committees of the legislature no later than November 1, 2009."

Senators Hargrove and Stevens 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 Hargrove and Stevens to Engrossed Substitute House Bill No. 2035.

The motion by Senator Hargrove 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 3 of the title, after "operate;" strike the remainder of the title and insert "and amending 2008 c 230 s 4 (uncodified)."

MOTION

On motion of Senator Hargrove, the rules were suspended, Engrossed Substitute House Bill No. 2035 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 Engrossed Substitute House Bill No. 2035 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2035 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 Becker, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Absent: Senator Benton

Excused: Senator Rockefeller

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2035 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 Marr, Senators Fairley and Kline were excused.

SECOND READING

ENGROSSED HOUSE BILL NO. 2299, by Representatives Klippert, Driscoll, Haler, Kenney and Grant-Herriot

Concerning formation, operation, and nonstate funding of public facilities districts.

The measure was read the second time.

MOTION

Senator Hobbs moved that the following committee striking amendment by the Committee on Government Operations & Elections be not adopted.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 35.57.010 and 2007 c 486 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

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(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least two legislative authorities, one or more of which previously created a public facilities district or districts under (b) or (c) of this subsection, may create an additional public facilities district notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within all or part of the same geographic area. Additional public facilities districts formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties.

(2)(a) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, shall be coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries shall not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities

and towns; and (ii) four members appointed by the legislative ~~((authority))~~ authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative ~~((authority))~~ authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection shall be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section may provide, in the agreement providing for its creation and operation, that the district must be governed by a board of directors appointed under (b) or (c) of this subsection, or by a board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities district or districts, or both, previously created by those legislative authorities.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city, town, or county participating in the public facilities district. If a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member. For a board formed under this subsection to approve a proposition to be sent to the voters, the proposition must be approved by a majority of the members representing or appointed by each legislative authority participating in the public facilities district.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district"

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within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are each reenacted and amended to read as follows:

(1) A public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For purposes of this chapter, "regional center" means a convention, conference, or special events center, recreation facility other than a ski area, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

Sec. 3. RCW 82.14.048 and 2008 c 86 s 103 are each amended to read as follows:

(1) The governing board of a public facilities district under chapter 36.100 or 35.57 RCW may submit an authorizing proposition to the voters of the district, and if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A public facilities district formed under RCW 35.57.010(1)(e) may not impose the tax authorized under this subsection at a rate that exceeds two-tenths of one percent minus the rate of the highest tax authorized by this subsection that is imposed by any other public facilities district within its boundaries. If a public facilities district formed under RCW 35.57.010(1)(e) has imposed a tax under this subsection and issued or incurred obligations pledging that tax, so long as those obligations are outstanding no other public facilities district within its boundaries may thereafter impose a tax under this subsection at a rate that would reduce the rate of the tax that was pledged to the repayment of those obligations. A public facilities district that imposes a tax under this subsection is responsible for the payment of any costs incurred for the purpose of administering the provisions of this subsection, RCW 35.57.010(1) (e) and (d) and 35.57.020(1)(b), including any administrative costs associated with the imposition of a tax under this subsection incurred by either the department of revenue or local government, or both.

(3) Moneys received from any tax imposed under the authority of this section shall be used for the purpose of providing funds for the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of its public facilities."

On page 1, line 2 of the title, after "districts;" strike the remainder of the title and insert "amending RCW 35.57.010 and 82.14.048; and reenacting and amending RCW 35.57.020."

The President declared the question before the Senate to be the motion by Senator Hobbs to not adopt the committee striking amendment by the Committee on Government Operations & Elections to Engrossed House Bill No. 2299.

The motion by Senator Hobbs carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Hobbs moved that the following striking amendment by Senator Hobbs and others be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 35.57.010 and 2007 c 486 s 1 are each amended to read as follows:

(1)(a) The legislative authority of any town or city located in a county with a population of less than one million may create a public facilities district.

(b) The legislative authorities of any contiguous group of towns or cities located in a county or counties each with a population of less than one million may enter an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(c) The legislative authority of any town or city, or any contiguous group of towns or cities, located in a county with a

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population of less than one million and the legislative authority of a contiguous county, or the legislative authority of the county or counties in which the towns or cities are located, may enter into an agreement under chapter 39.34 RCW for the creation and joint operation of a public facilities district.

(d) The legislative authority of a city located in a county with a population greater than one million may create a public facilities district, when the city has a total population of less than one hundred fifteen thousand but greater than eighty thousand and commences construction of a regional center prior to July 1, 2008.

(e) At least two legislative authorities, one or more of which previously created a public facilities district or districts under (b) or (c) of this subsection, may create an additional public facilities district notwithstanding the fact that one or more of those towns or cities, with or without a county or counties, previously have created one or more public facilities districts within the geographic boundaries of the additional public facilities district. Those existing districts may continue their full corporate existence and activities notwithstanding the creation and existence of the additional district within all or part of the same geographic area. Additional public facilities districts formed under this subsection may be comprised of a maximum of three contiguous towns or cities separately or in combination with a maximum of two contiguous counties.

(2)(a) A public facilities district shall be coextensive with the boundaries of the city or town or contiguous group of cities or towns that created the district.

(b) A public facilities district created by an agreement between a town or city, or a contiguous group of towns or cities, and a contiguous county or the county in which they are located, shall be coextensive with the boundaries of the towns or cities, and the boundaries of the county or counties as to the unincorporated areas of the county or counties. The boundaries shall not include incorporated towns or cities that are not parties to the agreement for the creation and joint operation of the district.

(3)(a) A public facilities district created by a single city or town shall be governed by a board of directors consisting of five members selected as follows: (i) Two members appointed by the legislative authority of the city or town; and (ii) three members appointed by legislative authority based on recommendations from local organizations. The members appointed under (a)(i) of this subsection, shall not be members of the legislative authority of the city or town. The members appointed under (a)(ii) of this subsection, shall be based on recommendations received from local organizations that may include, but are not limited to the local chamber of commerce, local economic development council, and local labor council. The members shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(b) A public facilities district created by a contiguous group of cities and towns shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities and towns; and (ii) four members appointed by the legislative ~~((authority))~~ authorities of the cities and towns based on recommendations from local organizations. The members appointed under (b)(i) of this subsection shall not be members of the legislative authorities of the cities and towns. The members appointed under (b)(ii) of this subsection, shall be based on recommendations received from local organizations that include, but are not limited to the local chamber of commerce, local economic development council, local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34

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RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(c) A public facilities district created by a town or city, or a contiguous group of towns or cities, and a contiguous county or the county or counties in which they are located, shall be governed by a board of directors consisting of seven members selected as follows: (i) Three members appointed by the legislative authorities of the cities, towns, and county; and (ii) four members appointed by the legislative ~~((authority))~~ authorities of the cities, towns, and county based on recommendations from local organizations. The members appointed under (c)(i) of this subsection shall not be members of the legislative authorities of the cities, towns, or county. The members appointed under (c)(ii) of this subsection shall be based on recommendations received from local organizations that include, but are not limited to, the local chamber of commerce, the local economic development council, the local labor council, and a neighborhood organization that is directly affected by the location of the regional center in their area. The members of the board of directors shall be appointed in accordance with the terms of the agreement under chapter 39.34 RCW for the joint operation of the district and shall serve four-year terms. Of the initial members, one must be appointed for a one-year term, one must be appointed for a two-year term, one must be appointed for a three-year term, and the remainder must be appointed for four-year terms.

(d)(i) A public facilities district created under subsection (1)(e) of this section may provide, in the agreement providing for its creation and operation, that the district must be governed by a board of directors appointed under (b) or (c) of this subsection, or by a board of directors of not more than nine members who are also members of the legislative authorities that created the public facilities district or of the governing boards of the public facilities district or districts, or both, previously created by those legislative authorities.

(ii) A board of directors formed under this subsection must have an equal number of members representing each city, town, or county participating in the public facilities district. If a public facilities district is created by an even number of legislative authorities, the members representing or appointed by those legislative authorities shall appoint an additional board member. For a board formed under this subsection to approve a proposition, the proposition must be approved by a majority of the members representing or appointed by each legislative authority participating in the public facilities district.

(4) A public facilities district is a municipal corporation, an independent taxing "authority" within the meaning of Article VII, section 1 of the state Constitution, and a "taxing district" within the meaning of Article VII, section 2 of the state Constitution.

(5) A public facilities district shall constitute a body corporate and shall possess all the usual powers of a corporation for public purposes as well as all other powers that may now or hereafter be specifically conferred by statute, including, but not limited to, the authority to hire employees, staff, and services, to enter into contracts, and to sue and be sued.

(6) A public facilities district may acquire and transfer real and personal property by lease, sublease, purchase, or sale. No direct or collateral attack on any public facilities district purported to be authorized or created in conformance with this chapter may be commenced more than thirty days after creation by the city and/or county legislative authority.

Sec. 2. RCW 35.57.020 and 2002 c 363 s 2 and 2002 c 218 s 25 are each reenacted and amended to read as follows:

(1)(a) Except for a public facilities district created under RCW 35.57.010(1)(e), a public facilities district is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more regional centers. For

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purposes of this chapter, "regional center" means a convention, conference, or special events center, or any combination of facilities, and related parking facilities, serving a regional population constructed, improved, or rehabilitated after July 25, 1999, at a cost of at least ten million dollars, including debt service. "Regional center" also includes an existing convention, conference, or special events center, and related parking facilities, serving a regional population, that is improved or rehabilitated after July 25, 1999, where the costs of improvement or rehabilitation are at least ten million dollars, including debt service. A "special events center" is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances. A regional center is conclusively presumed to serve a regional population if state and local government investment in the construction, improvement, or rehabilitation of the regional center is equal to or greater than ten million dollars.

(b) A public facilities district created under RCW 35.57.010(1)(e) is authorized to acquire, construct, own, remodel, maintain, equip, reequip, repair, finance, and operate one or more recreational facilities other than a ski area.

(2) A public facilities district may enter into contracts with any city or town for the purpose of exercising any powers of a community renewal agency under chapter 35.81 RCW.

(3) A public facilities district may impose charges and fees for the use of its facilities, and may accept and expend or use gifts, grants, and donations for the purpose of a regional center.

(4) A public facilities district may impose charges, fees, and taxes authorized in RCW 35.57.040, and use revenues derived therefrom for the purpose of paying principal and interest payments on bonds issued by the public facilities district to construct a regional center.

(5) Notwithstanding the establishment of a career, civil, or merit service system, a public facilities district may contract with a public or private entity for the operation or management of its public facilities.

(6) A public facilities district is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center.

(7) A city or town in conjunction with any special agency, authority, or other district established by a county or any other governmental agency is authorized to use the supplemental alternative public works contracting procedures set forth in chapter 39.10 RCW in connection with the design, construction, reconstruction, remodel, or alteration of any regional center funded in whole or in part by a public facilities district.

Sec. 3. RCW 82.14.048 and 2008 c 86 s 103 are each amended to read as follows:

(1) The governing board of a public facilities district under chapter 36.100 or 35.57 RCW may submit an authorizing proposition to the voters of the district, and if the proposition is approved by a majority of persons voting, impose a sales and use tax in accordance with the terms of this chapter.

(2) The tax authorized in this section shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within the public facilities district. The rate of tax shall not exceed two-tenths of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. A public facilities district formed under RCW 35.57.010(1)(e) may not impose the tax authorized under this subsection at a rate that exceeds two-tenths of one percent minus the rate of the highest tax authorized by this subsection that is imposed by any other public facilities district within its boundaries. If a public facilities district formed under RCW 35.57.010(1)(e) has imposed a tax under this subsection and issued or incurred obligations pledging that tax, so long as those

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obligations are outstanding no other public facilities district within its boundaries may thereafter impose a tax under this subsection at a rate that would reduce the rate of the tax that was pledged to the repayment of those obligations. A public facilities district that imposes a tax under this subsection is responsible for the payment of any costs incurred for the purpose of administering the provisions of this subsection, RCW 35.57.010(1)(e), and 35.57.020(1)(b), including any administrative costs associated with the imposition of a tax under this subsection incurred by either the department of revenue or local government, or both.

(3) Moneys received from any tax imposed under the authority of this section shall be used for the purpose of providing funds for the costs associated with the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, and reequipping of its public facilities.

Sec. 4. RCW 36.100.180 and 1995 c 396 s 15 are each amended to read as follows:

(1) The public facilities district may secure services by means of an agreement with a service provider. The public facilities district shall publish notice, establish criteria, receive and evaluate proposals, and negotiate with respondents under requirements set forth by district resolution.

(2) For personal service contracts of one hundred fifty thousand dollars or greater not otherwise governed by chapter 39.80 RCW, contracts for architectural and engineering services, a competitive solicitation process is required. The district shall establish the process by resolution, which must at a minimum include the following:

(a) Notice. A notice inviting statements of either qualifications or proposals, or both, from interested parties must be published in a newspaper of general circulation throughout the county in which the district is located at least ten days before the date for submitting the statements of qualifications or proposals.

(b) Description of services required. The request for statements of either qualifications or proposals, or both published or provided to interested parties must describe the services required and list the types of information and data required of each proposal. It may also describe the evaluation criteria and state the relative importance of the criteria if then available.

(c) Review and evaluation. The district shall establish a process to review and evaluate statements of either qualifications or proposals, or both. That process may include a selection board identified by the district or some other panel of evaluators. If appropriate, the reviewers may hear oral presentations by proposers.

(d) Selection. The evaluators shall select and rank the most qualified proposers. In selecting and ranking such proposers, the selection board shall consider the evaluation criteria established by the district and may consider such other information as may be secured during the evaluation process related to a proposer's qualifications and experience.

(e) Negotiations. The district shall enter into contract negotiations with the top-ranked proposer or proposers identified in the selection process. Negotiations may be conducted concurrently or sequentially as may be allowed by law.

(f) Approval. When negotiations are complete, the proposed contract will be presented to the district's governing body at its next regularly scheduled meeting for approval or ratification.

(3) Exceptions. The requirements of this section need not be met in the following circumstances:

(a) Emergency. When the contracting authority makes a finding that an emergency requires the immediate execution of the work involved. As used in this subsection, "emergency" has the same meaning as provided in RCW 39.29.006;

(b) Contract amendment. Amendments to existing service contracts are exempt from these requirements; and

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(c) Sole source. In the event that the services being sought can only be obtained from a single source, then the district shall make a formal written finding stating the factual basis for the exception and the solicitation requirements of this section do not apply. As used in this subsection, "sole source" has the same meaning as provided in RCW 39.29.006.

(4) Prospective application. Nothing in this section affects the validity or effect of any district contract executed prior to the effective date of this act."

Senators Hobbs and Delvin 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 Senator Hobbs and others to Engrossed House Bill No. 2299.

The motion by Senator Hobbs 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 "districts;" strike the remainder of the title and insert "amending RCW 35.57.010, 82.14.048, and 36.100.180; and reenacting and amending RCW 35.57.020."

MOTION

On motion of Senator Hobbs, the rules were suspended, Engrossed House Bill No. 2299 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 Hobbs spoke in favor of passage of the bill.

The President declared the question before the Senate to be the final passage of Engrossed House Bill No. 2299 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed House Bill No. 2299 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Delvin, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Kline and Rockefeller

ENGROSSED HOUSE BILL NO. 2299 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 Brandland, Senator Delvin was excused.

SECOND READING

HOUSE BILL NO. 1050, by Representatives Kelley, Hope, Rolfes, Johnson, Angel, Dammeier, Conway, Ross, Hunt, Herrera, Smith, Armstrong, Moeller, Parker, Rodne, Haler,

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Short, Shea, Chase, Morrell, Green, Sullivan, Newhouse, Upthegrove, Campbell, Kristiansen, Van De Wege, Wallace, Simpson, Bailey, Maxwell, McCune and Condotta

Adjusting veterans' scoring criteria.

The measure was read the second time.

MOTION

On motion of Senator Hobbs, the rules were suspended, House Bill No. 1050 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senator Hobbs 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. 1050.

ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 1050 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Carrell, Eide, Fairley, Franklin, Fraser, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, Kilmer, King, Kohl-Welles, Marr, McAuliffe, McCaslin, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Roach, Schoesler, Sheldon, Shin, Stevens, Swecker, Tom and Zarelli

Excused: Senators Delvin, Kline and Rockefeller

HOUSE BILL NO. 1050, 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 Hobbs, Senator Pridemore was excused.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2106, by House Committee on Ways & Means (originally sponsored by Representatives Kagi, Roberts, Kenney and Morrell)

Improving child welfare outcomes through the phased implementation of strategic and proven reforms.

The measure was read the second time.

MOTION

Senator Hargrove moved that the following committee striking amendment by the Committee on Ways & Means be not adopted.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.13 RCW to read as follows:

The legislature declares that the safety and well-being of children and families is essential to the social and economic health of Washington. It is the duty of the state to provide children at risk of out-of-home placement and their families with reasonable opportunities to access supportive services that

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enhance their safety and well-being. The legislature directs the programmatic and administrative changes required in this act to be accomplished in conformance with this foregoing principle.

The legislature finds that research in the area of child safety and well-being supports the conclusion that a restructuring of the administration and delivery of child welfare services through the use of performance-based contracts can enhance safety and well-being, when done so in a careful, well-planned and collaborative manner.

The legislature intends that the execution of performance-based contracts which transfer the delivery of child welfare services to entities other than the department be done without restricting who may seek to participate in the procurement process of the contracts. The legislature directs that the department retain those positions necessary to provide child protective and investigative services and to administer performance-based contracts.

The legislature further intends that the programmatic and administrative changes contained in this act have the result of reducing racial disproportionality in the child welfare system and racial disparities in child outcomes.

The legislature, in creating the committee in section 8 of this act, is establishing the mechanism to design, in collaboration with the executive and judicial branches and all affected entities, the transition to performance-based contracts in the delivery of out-of-home care and case management services.

Sec. 2. RCW 74.13.020 and 1999 c 267 s 7 are each amended to read as follows:

~~((As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:~~

~~— (1) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;~~

~~— (2) Protecting and caring for dependent or neglected children;~~

~~— (3) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;~~

~~— (4) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;~~

~~— (5) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.~~

~~As used in this chapter, child means a person less than eighteen years of age.~~

~~The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the plan.)~~

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children in the legal custody of the department in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

— (a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

— (b) Protecting and caring for dependent, abused, or neglected children;

— (c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

— (d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

— (e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

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

(7) "Outcomes" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or an Indian tribe under RCW 74.15.190, that has entered into a performance-based contract with the department to provide child welfare services.

NEW SECTION. Sec. 3. A new section is added to chapter 74.13 RCW to read as follows:

(1) On and after December 1, 2010, the department shall begin to convert its current contracts with child-placing agencies into performance-based contracts to provide child welfare services in this state.

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(2) On and after July 1, 2014:

(a) Child welfare services for sixty percent of the children for whom the department has legal custody shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, in those offices in which child welfare services are provided by supervising agencies, the department may not directly provide child welfare services.

(3) On and after July 1, 2014, in the offices in which the department has entered into a performance-based contract with a supervising agency to provide child welfare services, the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter; and

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act.

(4) On and after July 1, 2014, in the offices in which the department has entered into a performance-based contract with a supervising agency to provide child welfare services, the department may provide child welfare services only in an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after July 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; reunification of the child with the child's parents; child permanency; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation.

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

Children whose cases are managed by a supervising agency remain dependents of the state.

NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

Except for Indian tribes, performance-based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall be preferred.

NEW SECTION. Sec. 6. A new section is added to chapter 43.10 RCW to read as follows:

The office of the attorney general shall provide, or cause to be provided, legal services in only dependency or termination of parental rights matters to supervising agencies with whom the department of social and health services has entered into performance-based contracts to provide child welfare services as soon as the contracts become effective.

NEW SECTION. Sec. 7. A new section is added to chapter 74.13 RCW to read as follows:

As child welfare services caseworker and staff vacancies occur due to voluntary employee departures, and if the department determines those positions should be filled by state workers because there are insufficient supervising agency

resources available in that region to provide the necessary child welfare services, the department shall review its current staff assignments and transfer staff with sufficient child welfare services experience in other units in the region to the vacant child welfare services position or positions. If this occurs, the department shall determine if there are other services in the region where the work could be performed by supervising agencies.

NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of the effective date of this section, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from federally recognized Indian tribes, two of which operate child welfare programs, selected by the Indian policy advisory committee convened by the department's Indian policy and support services office;

(xi) Two present or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; and

(xv) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (v), (xiv), and (xv) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The chair or cochairs of the committee shall be selected from among its membership by a majority vote of those present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare

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services by supervising agencies pursuant to section 3 of this act.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in section 3(5) of this act; and

(viii) Incentives to meet outcome goals;

(b) A method by which the department will substantially reduce its current number of contracts for child welfare services;

(c) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks, develop subcontracts, and share information and supervision of children;

(d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(l) A method by which to access and enhance existing data systems to include contract performance information;

(m) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4) The committee shall also prepare as part of the plan a recommendation as to how to implement this act so that full implementation of the requirement that child welfare services for sixty percent of the children for whom the department has legal custody is achieved no later than July 1, 2014.

(5) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(6) The committee shall report quarterly on its progress, beginning on June 30, 2009, to the governor and the legislative children's oversight committee established in RCW 44.04.220. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (4) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(7) The committee, by majority vote, may establish advisory committees as it deems necessary.

(8) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochair may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(9) It is expected that the administrative costs for the committee will be supported through private funds.

(10) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(11) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(12) This section expires July 1, 2014.

NEW SECTION. Sec. 9. A new section is added to chapter 74.13 RCW to read as follows:

(1) Eighteen months after the department has entered into performance-based contracts with supervising agencies to provide child welfare services, the Washington state institute for public policy is to conduct a review of outcomes achieved by the supervising agencies and compare those outcomes with the existing services offered by the state. Among the outcomes to be compared are the number of relative placements, number of placements with siblings, rereferral for cases where the children who were placed were reunified and then returned to out-of-home care during the eighteen-month period, the extent to which the programmatic and administrative changes contained in this act have resulted in reducing the disproportionate representation of children of color in the child welfare system and reduced

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racial disparities in child outcomes, and timelines for achievement of permanency in individual cases. This preliminary report is due to the governor and the legislature by June 30, 2012.

(2) No later than July 1, 2013, the Washington state institute for public policy shall provide the legislature and the governor with the final results of the outcomes comparison. If the report indicates improved outcomes through the use of performance-based contracts with supervising agencies, the governor is encouraged to expand statewide the use of performance-based contracts in the manner contemplated in this act.

(3) The department shall respond to the Washington institute for public policy's request for data and other information with which to complete these reports in a timely manner.

Sec. 10. RCW 74.15.010 and 1995 c 302 s 2 are each amended to read as follows:

The purpose of chapter 74.15 RCW and RCW 74.13.031 is:

(1) To safeguard the health, safety, and well-being of children, expectant mothers and developmentally disabled persons receiving care away from their own homes, which is paramount over the right of any person to provide care;

(2) To strengthen and encourage family unity and to sustain parental rights and responsibilities to the end that foster care is provided only when a child's family, through the use of all available resources, is unable to provide necessary care;

(3) To promote the development of a sufficient number and variety of adequate (~~child-care~~) foster family homes and maternity-care facilities, both public and private, through the cooperative efforts of public and (~~voluntary~~) supervising agencies and related groups;

(4) To provide consultation to agencies caring for children, expectant mothers or developmentally disabled persons in order to help them to improve their methods of and facilities for care;

(5) To license agencies as defined in RCW 74.15.020 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 agencies caring for children, expectant mothers and developmentally disabled persons.

Sec. 11. RCW 74.15.020 and 2007 c 412 s 1 are each amended to read as follows:

For the purpose of this chapter 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-placing agency" means an agency which places a child or children for temporary care, continued care, or for adoption;

(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;

(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;

(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;

(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;

(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;

(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;

(h) "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;

(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;

(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, second 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;

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(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;

(v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or

(vi) 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 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) 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;

(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 citizenship and immigration (~~and naturalization~~) services, or persons who have the care of such an international child in their home;

(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;

(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;

(h) Licensed physicians or lawyers;

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

(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;

(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;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

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

(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) (~~"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) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(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.

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

(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.

(10) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(11) "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~~) workforce investment act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

Sec. 12. RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are each reenacted and 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~~)

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under this chapter, or because of any other relevant 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) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;

(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;

(d) Obtaining child protective services information or records maintained in the department's ~~((case management))~~ information technology system. ~~((No))~~ Unfounded allegations of child abuse or neglect as defined in RCW 26.44.020 ~~((may))~~ shall be disclosed to ~~((a child-placing agency, private adoption agency, or any other provider licensed))~~ supervising agencies under this chapter;

(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:

(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicense;

(ii) Foster care and adoption placements; and

(iii) Any adult living in a home where a child may be placed;

(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;

(g) The cost of fingerprint background check fees will be paid as required in RCW 43.43.837;

(h) National and state background information must be used 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 or expectant mothers;

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

(j) 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;

(k) 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;

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

(m) 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.

Sec. 13. RCW 74.15.050 and 1995 c 369 s 62 are each amended to read as follows:

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 children's services advisory committee 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 chapter 74.15 RCW and RCW 74.13.031, except foster-family homes and child-placing agencies, necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies, other than foster-family homes or child-placing agencies, as he or she deems necessary;

(3) To make a periodic review of requirements under RCW 74.15.030(7) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses hereunder, other than foster-family homes or child-placing agencies, who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department ~~((of social and health services))~~ before a license shall be issued, except that ~~((a provisional))~~ an initial license may be issued as provided in RCW 74.15.120.

Sec. 14. RCW 74.15.100 and 2006 c 265 s 403 are each amended to read as follows:

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Each agency or supervising 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 homes having an acceptable history of child care, the license may remain in effect for two weeks after a move, except that this will apply only if the family remains intact.

Sec. 15. RCW 26.44.020 and 2007 c 220 s 1 are each amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(6) "Court" means the superior court of the state of Washington, juvenile department.

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

(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(9) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(10) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(11) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(12) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(14) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner (~~← PROVIDED, HOWEVER, That~~). A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(16) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(17) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(19) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or

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engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(21) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(22) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(23) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

Sec. 16. RCW 26.44.200 and 2002 c 134 s 4 are each amended to read as follows:

A law enforcement agency in the course of investigating:

(1) An allegation under RCW 69.50.401(~~((a))~~) (1) and (2) (a) through (e) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

NEW SECTION. Sec. 17. A new section is added to chapter 26.44 RCW to read as follows:

Within existing resources, the department shall develop a curriculum designed to train child protective services staff in forensic techniques used for investigating allegations of child abuse or neglect.

Sec. 18. RCW 13.34.025 and 2007 c 410 s 2 are each amended to read as follows:

(1) The department (~~(of social and health services)~~) and supervising agencies shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department and supervising agencies must:

(a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

(b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

(c) Access training for department and supervising agency staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers including supervising agencies, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department or

supervising agency in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as time-limited family reunification services. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department or supervising agency shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

Sec. 19. RCW 13.34.030 and 2003 c 227 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

(~~((5))~~) (6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

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(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

((6)) (7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

((7)) (8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

((8)) (9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

((9)) (10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

((10)) (11) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

((11)) (12) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

((12)) (13) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing services, capable of preventing the need for out-of-home placement while protecting the child. Housing services may include, but are not limited to, referrals to federal, state, local, or private agencies or organizations, assistance with forms and applications, or financial subsidies for housing.

((13)) (14) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

((14)) (15) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

((15)) (16) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(17) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 with whom the department has entered into a performance-based contract to provide child welfare services as defined in RCW 74.13.020.

Sec. 20. RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management

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responsibilities of the case. The department (~~of social and health services~~) or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which (~~it is the petitioner~~) the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order (~~the supervising agency or~~) the department (~~of social and health services~~) to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it

would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court

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orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 21. RCW 13.34.067 and 2004 c 147 s 1 are each amended to read as follows:

(1)(a) Following shelter care and no later than thirty days prior to fact-finding, the department or supervising agency shall convene a case conference as required in the shelter care order to develop and specify in a written service agreement the expectations of both the department or supervising agency and the parent regarding voluntary services for the parent.

(b) The case conference shall include the parent, counsel for the parent, caseworker, counsel for the state, guardian ad litem, counsel for the child, and any other person agreed upon by the parties. Once the shelter care order is entered, the department or supervising agency is not required to provide additional notice of the case conference to any participants in the case conference.

(c) The written service agreement expectations must correlate with the court's findings at the shelter care hearing. The written service agreement must set forth specific services to be provided to the parent.

(d) The case conference agreement must be agreed to and signed by the parties. The court shall not consider the content of the discussions at the case conference at the time of the fact-finding hearing for the purposes of establishing that the child is a dependent child, and the court shall not consider any documents or written materials presented at the case conference but not incorporated into the case conference agreement, unless the documents or written materials were prepared for purposes other than or as a result of the case conference and are otherwise admissible under the rules of evidence.

(2) At any other stage in a dependency proceeding, the department or supervising agency, upon the parent's request, shall convene a case conference.

Sec. 22. RCW 13.34.094 and 2004 c 147 s 3 are each amended to read as follows:

The department, or supervising agency after the shelter care hearing, shall, within existing resources, provide to parents requesting or participating in a multidisciplinary team, family group conference, case conference, or prognostic staffing information that describes these processes prior to the processes being undertaken.

Sec. 23. RCW 13.34.096 and 2007 c 409 s 1 are each amended to read as follows:

The department (~~(of social and health services or other)~~) or supervising agency shall provide the child's foster parents, preadoptive parents, or other caregivers with notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter. The rights to notice and to be heard apply only to persons with whom a child has been placed by the department before shelter care or (~~other~~) supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

Sec. 24. RCW 13.34.125 and 1999 c 173 s 2 are each amended to read as follows:

In those cases where an alleged father, birth parent, or parent has indicated his or her intention to make a voluntary adoption plan for the child and has agreed to the termination of his or her parental rights, the department or supervising agency shall follow the wishes of the alleged father, birth parent, or parent regarding the proposed adoptive placement of the child, if the court determines that the adoption is in the best interest of the child, and the prospective adoptive parents chosen by the alleged father, birth parent, or parent are properly qualified to adopt in compliance with the standards in this chapter and chapter 26.33 RCW. If the department or supervising agency has filed a termination petition, an alleged father's, birth parent's, or parent's preferences regarding the proposed adoptive placement of the child shall be given consideration.

Sec. 25. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative ~~((or))~~, the department, or a ~~((licensed child placement))~~ supervising agency for supervision of the child's placement. The department or supervising agency ~~((supervising the child's placement))~~ has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions

filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 26. RCW 13.34.136 and 2008 c 267 s 3 and 2008 c 152 s 2 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to

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the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency (~~(charged with supervising a child in placement)~~) or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve

permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(3).

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 27. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts

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they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the supervising agency or department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department or supervising agency must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the supervising agency or the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with ~~(an)~~ the supervising agency's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's or supervising agency's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 28. RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The

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hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the

circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 29. RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the dependency petition dismissed, the department or supervising agency shall not continue to supervise the placement.

(2) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

(3) Any order entered in the dependency court establishing or modifying a permanent legal custody order under chapter 26.10 RCW shall also be filed in the chapter 26.10 RCW action by the prevailing party. Once filed, any order establishing or modifying permanent legal custody shall survive dismissal of the dependency proceeding.

Sec. 30. RCW 13.34.174 and 2000 c 122 s 23 are each amended to read as follows:

(1) The provisions of this section shall apply when a court orders a party to undergo an alcohol or substance abuse diagnostic investigation and evaluation.

(2) The facility conducting the investigation and evaluation shall make a written report to the court stating its findings and recommendations including family-based services or treatment when appropriate. If its findings and recommendations support treatment, it shall also recommend a treatment plan setting out:

- (a) Type of treatment;
- (b) Nature of treatment;
- (c) Length of treatment;
- (d) A treatment time schedule; and
- (e) Approximate cost of the treatment.

The affected person shall be included in developing the appropriate treatment plan. The treatment plan must be signed by the treatment provider and the affected person. The initial written progress report based on the treatment plan shall be sent to the appropriate persons six weeks after initiation of treatment. Subsequent progress reports shall be provided after three months, six months, twelve months, and thereafter every six months if treatment exceeds twelve months. Reports are to be filed with the court in a timely manner. Close-out of the treatment record must include summary of pretreatment and posttreatment, with final outcome and disposition. The report shall also include recommendations for ongoing stability and decrease in destructive behavior.

Each report shall also be filed with the court and a copy given to the person evaluated and the person's counsel. A copy of the treatment plan shall also be given to the department's or supervising agency's caseworker and to the guardian ad litem. Any program for chemical dependency shall meet the program requirements contained in chapter 70.96A RCW.

(3) If the court has ordered treatment pursuant to a dependency proceeding it shall also require the treatment program to provide, in the reports required by subsection (2) of this section, status reports to the court, the department, the supervising (~~(child-placing)~~) agency (~~(if any)~~), and the person or person's counsel regarding the person's cooperation with the treatment plan proposed and the person's progress in treatment.

(4) If a person subject to this section fails or neglects to carry out and fulfill any term or condition of the treatment plan, the program or agency administering the treatment shall report such breach to the court, the department, the guardian ad litem, the supervising (~~(child-placing)~~) agency if any, and the person or person's counsel, within twenty-four hours, together with its recommendation. These reports shall be made as a declaration by the person who is personally responsible for providing the treatment.

(5) Nothing in this chapter may be construed as allowing the court to require the department to pay for the cost of any alcohol or substance abuse evaluation or treatment program.

Sec. 31. RCW 13.34.176 and 2000 c 122 s 24 are each amended to read as follows:

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(1) The court, upon receiving a report under RCW 13.34.174(4) or at the department's or supervising agency's request, may schedule a show cause hearing to determine whether the person is in violation of the treatment conditions. All parties shall be given notice of the hearing. The court shall hold the hearing within ten days of the request for a hearing. At the hearing, testimony, declarations, reports, or other relevant information may be presented on the person's alleged failure to comply with the treatment plan and the person shall have the right to present similar information on his or her own behalf.

(2) If the court finds that there has been a violation of the treatment conditions it shall modify the dependency order, as necessary, to ensure the safety of the child. The modified order shall remain in effect until the party is in full compliance with the treatment requirements.

Sec. 32. RCW 13.34.180 and 2001 c 332 s 4 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party, including the supervising agency, to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (2) or (3) of this section applies:

(a) That the child has been found to be a dependent child;

(b) That the court has entered a dispositional order pursuant to RCW 13.34.130;

(c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

(2) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(3) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(4) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the ~~((department of social and health services))~~ supervising agency and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

Sec. 33. RCW 13.34.210 and 2003 c 227 s 8 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or ~~((to))~~ a ~~((licensed child-placing))~~ supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical

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treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under RCW 13.34.231 or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered except for those cases which are reviewed by a citizen review board under chapter 13.70 RCW. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

Sec. 34. RCW 13.34.215 and 2008 c 267 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination; and

(d) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

Sec. 35. RCW 13.34.230 and 1981 c 195 s 1 are each amended to read as follows:

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Any party to a dependency proceeding, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as to a dependent child. The department ~~((of social and health services))~~ or supervising agency shall receive notice of any guardianship proceedings and have the right to intervene in the proceedings.

Sec. 36. RCW 13.34.233 and 2000 c 122 s 30 are each amended to read as follows:

(1) Any party may request the court under RCW 13.34.150 to modify or terminate a dependency guardianship order. Notice of any motion to modify or terminate the guardianship shall be served on all other parties, including any agency that was responsible for supervising the child's placement at the time the guardianship petition was filed. Notice in all cases shall be served upon the department. If the department or supervising agency was not previously a party to the guardianship proceeding, the department or supervising agency shall nevertheless have the right to: (a) Initiate a proceeding to modify or terminate a guardianship; and (b) intervene at any stage of such a proceeding.

(2) The guardianship may be modified or terminated upon the motion of any party ~~((or))~~, the department, or the supervising agency if the court finds by a preponderance of the evidence that there has been a substantial change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the guardianship. The court shall hold a hearing on the motion before modifying or terminating a guardianship.

(3) Upon entry of an order terminating the guardianship, the dependency guardian shall not have any rights or responsibilities with respect to the child and shall not have legal standing to participate as a party in further dependency proceedings pertaining to the child. The court may allow the child's dependency guardian to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

(4) Upon entry of an order terminating the guardianship, the child shall remain dependent and the court shall either return the child to the child's parent or order the child into the custody, control, and care of the department or a ~~((licensed child-placing))~~ supervising agency for placement in a foster home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to such chapter. The court shall not place a child in the custody of the child's parent unless the court finds that reasons for removal as set forth in RCW 13.34.130 no longer exist and that such placement is in the child's best interest. The court shall thereafter conduct reviews as provided in RCW 13.34.138 and, where applicable, shall hold a permanency planning hearing in accordance with RCW 13.34.145.

Sec. 37. RCW 13.34.245 and 1997 c 386 s 18 are each amended to read as follows:

(1) Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or

within ten days after, the birth of the Indian child shall not be valid.

(2) To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.

(3) Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or ~~((other child-placing))~~ supervising agency which is to assume responsibility for the child's placement and care pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any nonconsenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.

(4) Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at any time. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.

(5) Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or ~~((other child-placing))~~ supervising agency which had assumed responsibility for the child's placement and care pursuant to the consent to foster care placement shall file with the court written notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any noncustodial parent.

Sec. 38. RCW 13.34.320 and 1999 c 188 s 2 are each amended to read as follows:

The department or supervising agency shall obtain the prior consent of a child's parent, legal guardian, or legal custodian before a dependent child is admitted into an inpatient mental health treatment facility. If the child's parent, legal guardian, or legal custodian is unavailable or does not agree with the proposed admission, the department or supervising agency shall request a hearing and provide notice to all interested parties to seek prior approval of the juvenile court before such admission.

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In the event that an emergent situation creating a risk of substantial harm to the health and welfare of a child in the custody of the department or supervising agency does not allow time for the department or supervising agency to obtain prior approval or to request a court hearing before consenting to the admission of the child into an inpatient mental health hospital, the department or supervising agency shall seek court approval by requesting that a hearing be set on the first available court date.

Sec. 39. RCW 13.34.330 and 1999 c 188 s 3 are each amended to read as follows:

A dependent child who is admitted to an inpatient mental health facility shall be placed in a facility, with available treatment space, that is closest to the family home, unless the department or supervising agency, in consultation with the admitting authority finds that admission in the facility closest to the child's home would jeopardize the health or safety of the child.

Sec. 40. RCW 13.34.340 and 2000 c 122 s 35 are each amended to read as follows:

For minors who cannot consent to the release of their records with the department or supervising agency because they are not old enough to consent to treatment, or, if old enough, lack the capacity to consent, or if the minor is receiving treatment involuntarily with a provider the department or supervising agency has authorized to provide mental health treatment under RCW 13.34.320, the department or supervising agency shall disclose, upon the treating physician's request, all relevant records, including the minor's passport as established under RCW 74.13.285, in the department's or supervising agency's possession that the treating physician determines contain information required for treatment of the minor. The treating physician shall maintain all records received from the department or supervising agency in a manner that distinguishes the records from any other records in the minor's file with the treating physician and the department or supervising agency records may not be disclosed by the treating physician to any other person or entity absent a court order except that, for medical purposes only, a treating physician may disclose the department or supervising agency records to another treating physician.

Sec. 41. RCW 13.34.350 and 2001 c 52 s 2 are each amended to read as follows:

In order to facilitate communication of information needed to serve the best interest of any child who is the subject of a dependency case filed under this chapter, the department (~~of social and health services~~) shall, consistent with state and federal law governing the release of confidential information, establish guidelines, and shall use those guidelines for the facilitation of communication of relevant information among divisions, providers, the courts, the family, caregivers, caseworkers, and others.

Sec. 42. RCW 13.34.370 and 2004 c 146 s 2 are each amended to read as follows:

The court may order expert evaluations of parties to obtain information regarding visitation issues or other issues in a case. These evaluations shall be performed by appointed evaluators who are mutually agreed upon by the court, the (~~state~~) supervising agency, the department, and the parents' counsel, and, if the child is to be evaluated, by the representative for the child. If no agreement can be reached, the court shall select the expert evaluator.

Sec. 43. RCW 13.34.380 and 2004 c 146 s 3 are each amended to read as follows:

The department (~~of social and health services~~) shall develop consistent policies and protocols, based on current relevant research, concerning visitation for dependent children to be implemented consistently throughout the state. The department shall develop the policies and protocols in consultation with researchers in the field, community-based agencies, court-appointed special advocates, parents' representatives, and court representatives. The policies and protocols shall include, but not be limited to: The structure and quality of visitations; and training for department and supervising agency caseworkers, visitation supervisors, and foster parents related to visitation.

The policies and protocols shall be consistent with the provisions of this chapter and implementation of the policies and protocols shall be consistent with relevant orders of the court.

Sec. 44. RCW 13.34.385 and 2008 c 259 s 1 are each amended to read as follows:

(1) A relative of a dependent child may petition the juvenile court for reasonable visitation with the child if:

(a) The child has been found to be a dependent child under this chapter;

(b) The parental rights of both of the child's parents have been terminated;

(c) The child is in the custody of the department (~~or~~), another public (~~or private~~) agency, or a supervising agency; and

(d) The child has not been adopted and is not in a preadoptive home or other permanent placement at the time the petition for visitation is filed.

(2) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department (~~or~~), other public (~~or private~~) agency, or supervising agency having custody of the child, the child's attorney or guardian ad litem if applicable, and the child. The court shall also order the custodial agency to give prior notice of any hearing to the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(3) The juvenile court may grant the petition for visitation if it finds that the requirements of subsection (1) of this section have been met, and that unsupervised visitation between the child and the relative does not present a risk to the child's safety or well-being and that the visitation is in the best interests of the child. In determining the best interests of the child the court shall consider, but is not limited to, the following:

(a) The love, affection, and strength of the relationship between the child and the relative;

(b) The length and quality of the prior relationship between the child and the relative;

(c) Any criminal convictions for or founded history of abuse or neglect of a child by the relative;

(d) Whether the visitation will present a risk to the child's health, welfare, or safety;

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference;

(f) Any other factor relevant to the child's best interest.

(4) The visitation order may be modified at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order shall state that visitation will automatically terminate upon the child's placement in a preadoptive home, if the child is adopted, or if there is a subsequent founded abuse or neglect allegation against the relative.

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(5) The granting of the petition under this section does not grant the relative the right to participate in the dependency action and does not grant any rights to the relative not otherwise specified in the visitation order.

(6) This section is retroactive and applies to any eligible dependent child at the time of the filing of the petition for visitation, regardless of the date parental rights were terminated.

(7) For the purpose of this section, "relative" means a relative as defined in RCW 74.15.020(2)(a), except parents.

(8) This section is intended to provide an additional procedure by which a relative may request visitation with a dependent child. It is not intended to impair or alter the ability a court currently has to order visitation with a relative under the dependency statutes.

Sec. 45. RCW 13.34.390 and 2005 c 504 s 303 are each amended to read as follows:

The department (~~(of social and health services)~~) and the department of health shall develop and expand comprehensive services for drug-affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence-based, research-based, or consensus-based practices, (~~(as those terms are defined in section 603 of this act)~~) and shall expand capacity in underserved regions of the state.

Sec. 46. RCW 13.34.400 and 2007 c 411 s 2 are each amended to read as follows:

In any proceeding under this chapter, if the department or supervising agency submits a report to the court in which the department is recommending a new placement or a change in placement, the department or supervising agency shall include the documents relevant to persons in the home in which a child will be placed and listed in subsections (1) through (5) of this section to the report. The department or supervising agency shall include only these relevant documents and shall not attach the entire history of the subject of the report.

(1) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report or evaluation submitted by the provider, but may not include the entire history with the provider.

(2) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to visitation with a child, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or summary of the visitation prepared by the person who supervised the visitation. The documentation attached to the report shall not include the entire visitation history.

(3) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to the psychological status of a person, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report, evaluation, or summary submitted by the provider, but shall not include the entire history of the person.

(4) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to injuries to a child, the department or supervising agency shall

attach a summary of the physician's report, prepared by the physician or the physician's designee, relating to the recommendation, opinion, or assertion by the department.

(5) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to a home study, licensing action, or background check information, the department or supervising agency shall attach the document or documents upon which that recommendation, opinion, or assertion is based.

Sec. 47. RCW 41.06.142 and 2008 c 267 s 9 are each amended to read as follows:

(1) Any department, agency, or institution of higher education may purchase services, including services that have been customarily and historically provided by employees in the classified service under this chapter, by contracting with individuals, nonprofit organizations, businesses, employee business units, or other entities if the following criteria are met:

(a) The invitation for bid or request for proposal contains measurable standards for the performance of the contract;

(b) Employees in the classified service whose positions or work would be displaced by the contract are provided an opportunity to offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures in subsection (4) of this section;

(c) The contract with an entity other than an employee business unit includes a provision requiring the entity to consider employment of state employees who may be displaced by the contract;

(d) The department, agency, or institution of higher education has established a contract monitoring process to measure contract performance, costs, service delivery quality, and other contract standards, and to cancel contracts that do not meet those standards; and

(e) The department, agency, or institution of higher education has determined that the contract results in savings or efficiency improvements. The contracting agency must consider the consequences and potential mitigation of improper or failed performance by the contractor.

(2) Any provision contrary to or in conflict with this section in any collective bargaining agreement in effect on July 1, 2005, is not effective beyond the expiration date of the agreement.

(3) Contracting for services that is expressly mandated by the legislature or was authorized by law prior to July 1, 2005, including contracts and agreements between public entities, shall not be subject to the processes set forth in subsections (1), (4), and (5) of this section.

(4) Competitive contracting shall be implemented as follows:

(a) At least ninety days prior to the date the contracting agency requests bids from private entities for a contract for services provided by classified employees, the contracting agency shall notify the classified employees whose positions or work would be displaced by the contract. The employees shall have sixty days from the date of notification to offer alternatives to purchasing services by contract, and the agency shall consider the alternatives before requesting bids.

(b) If the employees decide to compete for the contract, they shall notify the contracting agency of their decision. Employees must form one or more employee business units for the purpose of submitting a bid or bids to perform the services.

(c) The director of personnel, with the advice and assistance of the department of general administration, shall develop and make available to employee business units training in the bidding process and general bid preparation.

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(d) The director of general administration, with the advice and assistance of the department of personnel, shall, by rule, establish procedures to ensure that bids are submitted and evaluated in a fair and objective manner and that there exists a competitive market for the service. Such rules shall include, but not be limited to: (i) Prohibitions against participation in the bid evaluation process by employees who prepared the business unit's bid or who perform any of the services to be contracted; (ii) provisions to ensure no bidder receives an advantage over other bidders and that bid requirements are applied equitably to all parties; and (iii) procedures that require the contracting agency to receive complaints regarding the bidding process and to consider them before awarding the contract. Appeal of an agency's actions under this subsection is an adjudicative proceeding and subject to the applicable provisions of chapter 34.05 RCW, the administrative procedure act, with the final decision to be rendered by an administrative law judge assigned under chapter 34.12 RCW.

(e) An employee business unit's bid must include the fully allocated costs of the service, including the cost of the employees' salaries and benefits, space, equipment, materials, and other costs necessary to perform the function. An employee business unit's cost shall not include the state's indirect overhead costs unless those costs can be attributed directly to the function in question and would not exist if that function were not performed in state service.

(f) A department, agency, or institution of higher education may contract with the department of general administration to conduct the bidding process.

(5) As used in this section:

(a) "Employee business unit" means a group of employees who perform services to be contracted under this section and who submit a bid for the performance of those services under subsection (4) of this section.

(b) "Indirect overhead costs" means the pro rata share of existing agency administrative salaries and benefits, and rent, equipment costs, utilities, and materials associated with those administrative functions.

(c) "Competitive contracting" means the process by which classified employees of a department, agency, or institution of higher education compete with businesses, individuals, nonprofit organizations, or other entities for contracts authorized by subsection (1) of this section.

(6) The requirements of this section do not apply to RCW 74.13.031(5) or section 3 of this act.

Sec. 48. RCW 74.13.010 and 1965 c 30 s 2 are each amended to read as follows:

The purpose of this chapter is to safeguard, protect, and contribute to the welfare of the children of the state, through a comprehensive and coordinated program of ~~((public))~~ child welfare services provided by both the department and supervising agencies providing for: Social services and facilities for children who require guidance, care, control, protection, treatment, or rehabilitation; setting of standards for social services and facilities for children; cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities in behalf of children; and promotion of community conditions and resources that help parents to discharge their responsibilities for the care, development, and well-being of their children.

NEW SECTION. Sec. 49. A new section is added to chapter 74.13 RCW to read as follows:

The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in

appropriations provided by the legislature for implementation of the comprehensive plan for homeless families with children.

Sec. 50. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

~~((The department shall have the duty to provide child welfare services and shall:))~~

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. ~~((The policy for monitoring placements))~~ Under this section ~~((shall require that))~~ children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month.

~~((a))~~ The department or supervising agencies shall conduct the monthly visits with children and caregivers ~~((required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.~~

~~—(b) in cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit~~

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with the child at least once every ninety days)) to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children(~~and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department~~).

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) The department and supervising agencies shall have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a

federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department (~~of social and health services~~) under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department (~~is~~) and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

Sec. 51. RCW 74.13.0311 and 2002 c 219 s 13 are each amended to read as follows:

The department or (~~its contractors~~) supervising agencies may provide child welfare services pursuant to a deferred prosecution plan ordered under chapter 10.05 RCW. Child welfare services provided under this chapter pursuant to a deferred prosecution order may not be construed to prohibit the department or supervising agencies from providing services or undertaking proceedings pursuant to chapter 13.34 or 26.44 RCW.

Sec. 52. RCW 74.13.032 and 1998 c 296 s 4 are each amended to read as follows:

(1) The department shall establish, (~~by~~) through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, (~~by~~) through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to

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performance-based contracts with licensed private group care facilities.

(4) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.

(5) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

(6) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 53. RCW 74.13.036 and 2003 c 207 s 2 are each amended to read as follows:

(1) The department (~~(of social and health services)~~) shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and child care systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that chapters 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state.

(2) The department shall develop a plan and procedures, in cooperation with the statewide advisory committee, to insure the full implementation of the provisions of chapter 13.32A RCW. Such plan and procedures shall include but are not limited to:

(a) Procedures defining and delineating the role of the department and juvenile court with regard to the execution of the child in need of services placement process;

(b) Procedures for designating department or supervising agency staff responsible for family reconciliation services;

(c) Procedures assuring enforcement of contempt proceedings in accordance with RCW 13.32A.170 and 13.32A.250; and

(d) Procedures for the continued education of all individuals in the criminal juvenile justice and child care systems who are affected by chapter 13.32A RCW, as well as members of the legislative and executive branches of government.

There shall be uniform application of the procedures developed by the department and juvenile court personnel, to the extent practicable. Local and regional differences shall be taken into consideration in the development of procedures required under this subsection.

(3) In addition to its other oversight duties, the department shall:

(a) Identify and evaluate resource needs in each region of the state;

(b) Disseminate information collected as part of the oversight process to affected groups and the general public;

(c) Educate affected entities within the juvenile justice and child care systems, local government, and the legislative branch regarding the implementation of chapters 13.32A and 13.34 RCW;

(d) Review complaints concerning the services, policies, and procedures of those entities charged with implementing chapters 13.32A and 13.34 RCW; and

(e) Report any violations and misunderstandings regarding the implementation of chapters 13.32A and 13.34 RCW.

(4) The department shall provide an annual report to the legislature not later than December 1 of each year only when it has declined to accept custody of a child from a law enforcement agency or it has received a report of a child being released without placement. The report shall indicate the number of times it has declined to accept custody of a child from a law enforcement agency under chapter 13.32A RCW and the number of times it has received a report of a child being released without placement under RCW 13.32A.060(1)(c). The report shall include the dates, places, and reasons the department declined to accept custody and the dates and places children are released without placement.

Sec. 54. RCW 74.13.037 and 1997 c 146 s 9 are each amended to read as follows:

Within available funds appropriated for this purpose, the department shall establish, ~~((by))~~ through performance-based contracts with private vendors, transitional living programs for youth who are being assisted by the department in being emancipated as part of their permanency plan under chapter 13.34 RCW. These programs shall be licensed under rules adopted by the department.

Sec. 55. RCW 74.13.042 and 1995 c 311 s 14 are each amended to read as follows:

If the department or supervising agency is denied lawful access to records or information, or requested records or information is not provided in a timely manner, the department or supervising agency may petition the court for an order compelling disclosure.

(1) The petition shall be filed in the juvenile court for the county in which the record or information is located or the county in which the person who is the subject of the record or information resides. If the person who is the subject of the record or information is a party to or the subject of a pending proceeding under chapter 13.32A or 13.34 RCW, the petition shall be filed in such proceeding.

(2) Except as otherwise provided in this section, the persons from whom and about whom the record or information is sought shall be served with a summons and a petition at least seven calendar days prior to a hearing on the petition. The court may order disclosure upon ex parte application of the department or supervising agency, without prior notice to any person, if the court finds there is reason to believe access to the record or information is necessary to determine whether the child is in imminent danger and in need of immediate protection.

(3) The court shall grant the petition upon a showing that there is reason to believe that the record or information sought is necessary for the health, safety, or welfare of the child who is currently receiving child welfare services.

Sec. 56. RCW 74.13.045 and 1998 c 245 s 146 are each amended to read as follows:

The department shall develop and implement an informal, nonadversarial complaint resolution process to be used by clients of the department or supervising agency, foster parents, and other affected individuals who have complaints regarding a department policy or procedure, ~~((or))~~ the application of such a policy or procedure, or the performance of an entity that has entered into a performance-based contract with the department, related to programs administered under this chapter. The process shall not apply in circumstances where the complainant has the right under Title 13, 26, or 74 RCW to seek resolution of the complaint through judicial review or through an adjudicative proceeding.

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Nothing in this section shall be construed to create substantive or procedural rights in any person. Participation in the complaint resolution process shall not entitle any person to an adjudicative proceeding under chapter 34.05 RCW or to superior court review. Participation in the process shall not affect the right of any person to seek other statutorily or constitutionally permitted remedies.

The department shall develop procedures to assure that clients and foster parents are informed of the availability of the complaint resolution process and how to access it. The department shall incorporate information regarding the complaint resolution process into the training for foster parents and department and supervising agency caseworkers.

The department shall compile complaint resolution data including the nature of the complaint and the outcome of the process.

Sec. 57. RCW 74.13.055 and 1998 c 245 s 147 are each amended to read as follows:

The department shall adopt rules pursuant to chapter 34.05 RCW which establish goals as to the maximum number of children who will remain in foster care for a period of longer than twenty-four months. The department shall also work cooperatively with ~~((the major private child care providers))~~ supervising agencies to assure that a partnership plan for utilizing the resources of the public and private sector in all matters pertaining to child welfare is developed and implemented.

Sec. 58. RCW 74.13.060 and 1971 ex.s. c 169 s 7 are each amended to read as follows:

(1) The secretary or his or her designees or delegates shall be the custodian without compensation of such moneys and other funds of any person which may come into the possession of the secretary during the period such person is placed with the department ~~((of social and health services))~~ or an entity with which it has entered into a performance-based contract pursuant to chapter 74.13 RCW. As such custodian, the secretary shall have authority to disburse moneys from the person's funds for the following purposes only and subject to the following limitations:

~~((1) The secretary may disburse any of the funds belonging to such person))~~ (a) For such personal needs of such person as the secretary may deem proper and necessary.

~~((2) The secretary may apply such funds))~~ (b) Against the amount of public assistance otherwise payable to such person. This includes applying, as reimbursement, any benefits, payments, funds, or accrual paid to or on behalf of said person from any source against the amount of public assistance expended on behalf of said person during the period for which the benefits, payments, funds or accruals were paid.

~~((3))~~ (2) All funds held by the secretary as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by him or her on an individual basis. Whenever, the funds belonging to any one person exceed the sum of five hundred dollars, the secretary may deposit said funds in a savings and loan association account on behalf of that particular person.

~~((4))~~ (3) When the conditions of placement no longer exist and public assistance is no longer being provided for such person, upon a showing of legal competency and proper authority, the secretary shall deliver to such person, or the parent, person, or agency legally responsible for such person, all funds belonging to the person remaining in his or her possession as custodian, together with a full and final accounting of all receipts and expenditures made therefrom.

~~((5))~~ (4) The appointment of a guardian for the estate of such person shall terminate the secretary's authority as custodian of said funds upon receipt by the secretary of a certified copy of letters of guardianship. Upon the guardian's request, the secretary shall immediately forward to such guardian any funds of such person remaining in the secretary's possession together with full and final accounting of all receipts and expenditures made therefrom.

Sec. 59. RCW 74.13.065 and 2002 c 52 s 8 are each amended to read as follows:

(1) The department ~~((or))~~ supervising agency ~~((responsible for supervising a child in out-of-home care,))~~ shall conduct a social study whenever a child is placed in out-of-home care under the supervision of the department or ~~((other))~~ supervising agency. The study shall be conducted prior to placement, or, if it is not feasible to conduct the study prior to placement due to the circumstances of the case, the study shall be conducted as soon as possible following placement.

(2) The social study shall include, but not be limited to, an assessment of the following factors:

(a) The physical and emotional strengths and needs of the child;

(b) Emotional bonds with siblings and the need to maintain regular sibling contacts;

(c) The proximity of the child's placement to the child's family to aid reunification;

(d) The possibility of placement with the child's relatives or extended family;

(e) The racial, ethnic, cultural, and religious background of the child;

(f) The least-restrictive, most family-like placement reasonably available and capable of meeting the child's needs; and

(g) Compliance with RCW 13.34.260 regarding parental preferences for placement of their children.

Sec. 60. RCW 74.13.075 and 1994 c 169 s 1 are each amended to read as follows:

(1) For the purposes of funds appropriated for the treatment of sexually aggressive youth, the term "sexually aggressive youth" means those juveniles who:

(a) Have been abused and have committed a sexually aggressive act or other violent act that is sexual in nature; and

(i) Are in the care and custody of the state or a federally recognized Indian tribe located within the state; or

(ii) Are the subject of a proceeding under chapter 13.34 RCW or a child welfare proceeding held before a tribal court located within the state; or

(b) Cannot be detained under the juvenile justice system due to being under age twelve and incompetent to stand trial for acts that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if the juvenile was over twelve years of age, or competent to stand trial if under twelve years of age.

(2) In expending these funds, the department ~~((of social and health services))~~ shall establish in each region a case review committee to review all cases for which the funds are used. In determining whether to use these funds in a particular case, the committee shall consider:

(a) The age of the juvenile;

(b) The extent and type of abuse to which the juvenile has been subjected;

(c) The juvenile's past conduct;

(d) The benefits that can be expected from the treatment;

(e) The cost of the treatment; and

(f) The ability of the juvenile's parent or guardian to pay for the treatment.

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(3) The department may provide funds, under this section, for youth in the care and custody of a tribe or through a tribal court, for the treatment of sexually aggressive youth only if: (a) The tribe uses the same or equivalent definitions and standards for determining which youth are sexually aggressive; and (b) the department seeks to recover any federal funds available for the treatment of youth.

Sec. 61. RCW 74.13.077 and 1993 c 402 s 4 are each amended to read as follows:

The secretary (~~(of the department of social and health services)~~) is authorized to transfer surplus, unused treatment funds from the civil commitment center operated under chapter 71.09 RCW to the division of children and family services to provide treatment services for sexually aggressive youth.

Sec. 62. RCW 74.13.096 and 2007 c 465 s 2 are each amended to read as follows:

(1) The secretary (~~(of the department of social and health services)~~) shall convene an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in Washington's child welfare system. The department shall collaborate with the Washington institute for public policy and private sector entities to develop a methodology for the advisory committee to follow in conducting a baseline analysis of data from the child welfare system to determine whether racial disproportionality and racial disparity exist in this system. The Washington institute for public policy shall serve as technical staff for the advisory committee. In determining whether racial disproportionality or racial disparity exists, the committee shall utilize existing research and evaluations conducted within Washington state, nationally, and in other states and localities that have similarly analyzed the prevalence of racial disproportionality and disparity in child welfare.

(2) At a minimum, the advisory committee shall examine and analyze: (a) The level of involvement of children of color at each stage in the state's child welfare system, including the points of entry and exit, and each point at which a treatment decision is made; (b) the number of children of color in low-income or single-parent families involved in the state's child welfare system; (c) the family structures of families involved in the state's child welfare system; and (d) the outcomes for children in the existing child welfare system. This analysis shall be disaggregated by racial and ethnic group, and by geographic region.

(3) The committee of not more than fifteen individuals shall consist of experts in social work, law, child welfare, psychology, or related fields, at least two tribal representatives, a representative of the governor's juvenile justice advisory committee, a representative of a community-based organization involved with child welfare issues, a representative of the department (~~(of social and health services)~~), a current or former foster care youth, a current or former foster care parent, and a parent previously involved with Washington's child welfare system. Committee members shall be selected as follows: (a) Five members selected by the senate majority leader; (b) five members selected by the speaker of the house of representatives; and (c) five members selected by the secretary of the department (~~(of social and health services)~~). The secretary, the senate majority leader, and the speaker of the house of representatives shall coordinate appointments to ensure the representation specified in this subsection is achieved. After the advisory committee appointments are finalized, the committee shall select two individuals to serve as cochairs of the committee, one of whom shall be a representative from a nongovernmental entity.

(4) The secretary shall make reasonable efforts to seek public and private funding for the advisory committee.

(5) Not later than June 1, 2008, the advisory committee created in subsection (1) of this section shall report to the secretary of the department (~~(of social and health services)~~) on the results of the analysis. If the results of the analysis indicate disproportionality or disparity exists for any racial or ethnic group in any region of the state, the committee, in conjunction with the secretary of the department (~~(of social and health services)~~), shall develop a plan for remedying the disproportionality or disparity. The remediation plan shall include: (a) Recommendations for administrative and legislative actions related to appropriate programs and services to reduce and eliminate disparities in the system and improve the long-term outcomes for children of color who are served by the system; and (b) performance measures for implementing the remediation plan. To the extent possible and appropriate, the remediation plan shall be developed to integrate the recommendations required in this subsection with the department's existing compliance plans, training efforts, and other practice improvement and reform initiatives in progress. The advisory committee shall be responsible for ongoing evaluation of current and prospective policies and procedures for their contribution to or effect on racial disproportionality and disparity.

(6) Not later than December 1, 2008, the secretary shall report the results of the analysis conducted under subsection (2) of this section and shall describe the remediation plan required under subsection (5) of this section to the appropriate committees of the legislature with jurisdiction over policy and fiscal matters relating to children, families, and human services. Beginning January 1, 2010, the secretary shall report annually to the appropriate committees of the legislature on the implementation of the remediation plan, including any measurable progress made in reducing and eliminating racial disproportionality and disparity in the state's child welfare system.

Sec. 63. RCW 74.13.103 and 1971 ex.s. c 63 s 2 are each amended to read as follows:

When a child proposed for adoption is placed with a prospective adoptive parent the department may charge such parent a fee in payment or part payment of such adoptive parent's part of the cost of the adoption services rendered and to be rendered by the department.

In charging such fees the department shall treat a husband and wife as a single prospective adoptive parent.

Each such fee shall be fixed according to a sliding scale based on the ability to pay of the prospective adoptive parent or parents.

Such fee scale shall be annually fixed by the secretary after considering the recommendations of the committee designated by the secretary to advise him or her on child welfare and pursuant to the regulations to be issued by the secretary in accordance with the provisions of Title 34 RCW.

The secretary may waive, defer, or provide for payment in installments without interest of, any such fee whenever in his or her judgment payment or immediate payment would cause economic hardship to such adoptive parent or parents.

Nothing in this section shall require the payment of a fee to the state of Washington in a case in which an adoption results from independent placement or placement by a licensed child-placing or supervising agency.

Sec. 64. RCW 74.13.106 and 1985 c 7 s 134 are each amended to read as follows:

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All fees paid for adoption services pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) shall be credited to the general fund. Expenses incurred in connection with supporting the adoption of hard to place children shall be paid by warrants drawn against such appropriations as may be available. The secretary may for such purposes, contract with any public agency or (~~licensed child placing~~) supervising agency and/or adoptive parent and is authorized to accept funds from other sources including federal, private, and other public funding sources to carry out such purposes.

The secretary shall actively seek, where consistent with the policies and programs of the department, and shall make maximum use of, such federal funds as are or may be made available to the department for the purpose of supporting the adoption of hard to place children. The secretary may, if permitted by federal law, deposit federal funds for adoption support, aid to adoptions, or subsidized adoption in the general fund and may use such funds, subject to such limitations as may be imposed by federal or state law, to carry out the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Sec. 65. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

Such agreements shall meet the following criteria:

(1) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(2) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(3) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support(~~(- provided that)~~). If the secretary (~~shall~~) finds that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), including annual review of the amount of such support.

(4) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

Sec. 66. RCW 74.13.124 and 1985 c 7 s 140 are each amended to read as follows:

An agreement for adoption support made (~~(pursuant to RCW 26.32.115)~~) before January 1, 1985, or pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), although subject to review and adjustment as provided for herein, shall, as to the standard used by the secretary in making such review or reviews and any such adjustment, constitute a contract within the meaning of section 10, Article I of the United States Constitution and section 23, Article I of the state Constitution. For that reason once such an agreement has been made any review of and adjustment under such agreement shall as to the standards used by the secretary, be made only subject to the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) and such rules and regulations relating thereto as they exist on the date of the initial determination in connection with such agreement or such more generous standard or parts of such standard as may hereafter be provided for by law or regulation. Once made such an agreement shall constitute a solemn undertaking by the state of Washington with such adoptive parent or parents. The termination of the effective period of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or a decision by the state or federal government to discontinue or reduce general appropriations made available for the purposes to be served by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), shall not affect the state's specific continuing obligations to support such adoptions, subject to such annual review and adjustment for all such agreements as have theretofore been entered into by the state.

The purpose of this section is to assure any such parent that, upon his or her consenting to assume the burdens of adopting a hard to place child, the state will not in future so act by way of general reduction of appropriations for the program authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or ratable reductions, to impair the trust and confidence necessarily reposed by such parent in the state as a condition of such parent taking upon himself or herself the obligations of parenthood of a difficult to place child.

Should the secretary and any such adoptive parent differ as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary in making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement such adoptive parent may invoke his or her rights, including all rights of appeal under the fair hearing provisions, available to him or her under RCW 74.13.127 (as recodified by this act).

Sec. 67. RCW 74.13.136 and 1985 c 7 s 144 are each amended to read as follows:

Any (~~(child-caring)~~) supervising agency or person having a child in foster care or institutional care and wishing to recommend to the secretary support of the adoption of such child as provided for in RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) may do so, and may include in its or his or her recommendation advice as to the appropriate level of support and any other information likely to assist the secretary in carrying out the functions vested in the secretary by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act). Such agency may, but is not required to, be retained by the secretary to make the required preplacement study of the prospective adoptive parent or parents.

Sec. 68. RCW 74.13.165 and 1997 c 272 s 4 are each amended to read as follows:

The secretary or the secretary's designee (~~(may)~~) shall purchase services from nonprofit agencies for the purpose of

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conducting home studies for legally free children who have been awaiting adoption finalization for more than ~~((ninety))~~ sixty days. The home studies selected to be done under this section shall be for the children who have been legally free and awaiting adoption finalization the longest period of time.

This section expires June 30, 2011.

Sec. 69. RCW 74.13.170 and 1991 c 326 s 2 are each amended to read as follows:

The department ~~((of social and health services))~~ may, through performance-based contracts with supervising agencies, implement a therapeutic family home program for up to fifteen youth in the custody of the department under chapter 13.34 RCW. The program shall strive to develop and maintain a mutually reinforcing relationship between the youth and the therapeutic staff associated with the program.

Sec. 70. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; and helping children leave foster care. Preservice training shall assist applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Foster parents shall complete preservice training ~~((shall be completed prior to))~~ before the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 71. RCW 74.13.280 and 2007 c 409 s 6 and 2007 c 220 s 4 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a ~~((child-placing))~~ supervising agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or supervising agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to

whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

(a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;

(b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;

(c) Has witnessed a death or substantial physical violence in the past or recent past; or

(d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law. Care providers shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

(5) Nothing in this section shall be construed to limit the authority of the department or ~~((child-placing))~~ supervising agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

(a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.

(b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:

(i) Suicide attempts or suicidal behavior or ideation;

(ii) Self-mutilation or similar self-destructive behavior;

(iii) Fire-setting or a developmentally inappropriate fascination with fire;

(iv) Animal torture;

(v) Property destruction; or

(vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

(i) Observed assaultive behavior;

(ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or

(iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

Sec. 72. RCW 74.13.283 and 2008 c 267 s 7 are each amended to read as follows:

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department or supervising agency to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

(a) A written signed statement prepared on department or supervising agency letterhead, verifying the following:

(i) The youth is a minor who resides in Washington;

(ii) Pursuant to a court order, the youth is dependent and the department or ~~((other))~~ supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;

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- (iii) The youth's full name and date of birth;
- (iv) The youth's social security number, if available;
- (v) A brief physical description of the youth;
- (vi) The appropriate address to be listed on the youth's identicard; and
- (vii) Contact information for the appropriate person ~~((at))~~ with the department or supervising agency.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department or supervising agency may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

(a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or

(b) Hand-delivered to a local office of the department of licensing by a department or supervising agency case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department or supervising agency shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 73. RCW 74.13.285 and 2007 c 409 s 7 are each amended to read as follows:

(1) Within available resources, the department or supervising agency shall prepare a passport containing all known and available information concerning the mental, physical, health, and educational status of the child for any child who has been in a foster home for ninety consecutive days or more. The passport shall contain education records obtained pursuant to RCW 28A.150.510. The passport shall be provided to a foster parent at any placement of a child covered by this section. The department or supervising agency shall update the passport during the regularly scheduled court reviews required under chapter 13.34 RCW.

New placements ~~((after July 1, 1997;))~~ shall have first priority in the preparation of passports. ~~((Within available resources, the department may prepare passports for any child in a foster home on July 1, 1997, provided that no time spent in a foster home before July 1, 1997, shall be included in the computation of the ninety days.))~~

(2) In addition to the requirements of subsection (1) of this section, the department or supervising agency shall, within available resources, notify a foster parent before placement of a child of any known health conditions that pose a serious threat to the child and any known behavioral history that presents a serious risk of harm to the child or others.

(3) The department shall hold harmless the provider including supervising agencies for any unauthorized disclosures caused by the department.

(4) Any foster parent who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information, except as authorized by law. Such individuals shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

Sec. 74. RCW 74.13.288 and 2004 c 40 s 2 are each amended to read as follows:

~~((+))~~ The department of health shall develop recommendations concerning evidence-based practices for testing for blood-borne pathogens of children under one year of

age who have been placed in out-of-home care and shall identify the specific pathogens for which testing is recommended.

~~((2) The department shall report to the appropriate committees of the legislature on the recommendations developed in accordance with subsection (1) of this section by January 1, 2005.))~~

Sec. 75. RCW 74.13.289 and 2004 c 40 s 3 are each amended to read as follows:

(1) Upon any placement, the department ~~((of social and health services))~~ or supervising agency shall inform each out-of-home care provider if the child to be placed in that provider's care is infected with a blood-borne pathogen, and shall identify the specific blood-borne pathogen for which the child was tested if known by the department or supervising agency.

(2) All out-of-home care providers licensed by the department shall receive training related to blood-borne pathogens, including prevention, transmission, infection control, treatment, testing, and confidentiality.

(3) Any disclosure of information related to HIV must be in accordance with RCW 70.24.105.

(4) The department of health shall identify by rule the term "blood-borne pathogen" as used in this section.

Sec. 76. RCW 74.13.300 and 1990 c 284 s 12 are each amended to read as follows:

(1) Whenever a child has been placed in a foster family home by the department or ~~((a child-placing))~~ supervising agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or ~~((child-placing))~~ supervising agency shall notify the foster family at least five days prior to moving the child to another placement, unless:

(a) A court order has been entered requiring an immediate change in placement;

(b) The child is being returned home;

(c) The child's safety is in jeopardy; or

(d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or ~~((child-placing))~~ supervising agency shall notify the foster family of proposed placement changes as soon as reasonably possible.

(3) This section is intended solely to assist in minimizing disruption to the child in changing foster care placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's foster care placement nor to create any substantive custody rights in the foster parents.

Sec. 77. RCW 74.13.310 and 1990 c 284 s 13 are each amended to read as follows:

Adequate foster parent training has been identified as directly associated with increasing the length of time foster parents are willing to provide foster care and reducing the number of placement disruptions for children. Placement disruptions can be harmful to children by denying them consistent and nurturing support. Foster parents have expressed the desire to receive training in addition to the foster parent ~~((SCOPE))~~ training currently offered. Foster parents who care for more demanding children, such as children with severe emotional, mental, or physical handicaps, would especially benefit from additional training. The department and supervising agency shall develop additional training for foster parents that focuses on skills to assist foster parents in caring for emotionally, mentally, or physically handicapped children.

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Sec. 78. RCW 74.13.315 and 1997 c 272 s 6 are each amended to read as follows:

The department or supervising agency may provide child care for all foster parents who are required to attend department-sponsored or supervising agency-sponsored meetings or training sessions. If the department or supervising agency does not provide such child care, the department or supervising agency, where feasible, shall conduct the activities covered by this section in the foster parent's home or other location acceptable to the foster parent.

Sec. 79. RCW 74.13.320 and 1990 c 284 s 15 are each amended to read as follows:

~~((The legislature finds that during the fiscal years 1987 to 1989 the number of children in foster care has risen by 14.3 percent. At the same time there has been a 31 percent turnover rate in foster homes because many foster parents have declined to continue to care for foster children. This situation has caused a dangerously critical shortage of foster homes.~~

~~—The department of social and health services shall develop and implement a project to recruit more foster homes and adoptive homes for special needs children by developing a request for proposal to licensed private foster care, licensed adoption agencies, and other organizations qualified to provide this service.~~

~~—The project shall consist of one statewide administrator of recruitment programs, and one or more licensed foster care or adoption agency contracts in each of the six departmental regions. These contracts shall enhance currently provided services and may not replace services currently funded by the agencies. No more than sixty thousand dollars may be spent annually to fund the administrator position.~~

~~—The agencies shall recruit foster care homes and adoptive homes for children classified as special needs children under chapter 74.08 RCW. The agencies shall utilize their own network of contacts and shall also develop programs similar to those used effectively in other states. The department shall expand the foster-adopt program statewide to encourage stable placements for foster children for whom permanent out-of-home placement is a likelihood. The department shall carefully consider existing programs to eliminate duplication of services.))~~

The department shall assist ~~((the private contractors))~~ supervising agencies by providing printing services for informational brochures and other necessary recruitment materials. No more than fifty thousand dollars of the funds provided for this section may be expended annually for recruitment materials.

Sec. 80. RCW 74.13.325 and 1997 c 272 s 3 are each amended to read as follows:

Within available resources, the department and supervising agencies shall increase the number of adoptive and foster families available to accept children through an intensive recruitment and retention program. The department shall ~~((contract with a private agency to))~~ enter into performance-based contracts with supervising agencies, under which the agencies will coordinate all foster care and adoptive home recruitment activities ((for the department and private agencies)).

Sec. 81. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

A foster parent who believes that a department or supervising agency employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(1) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, ~~((or))~~ the department, or the supervising agency, provided information, or otherwise cooperated with the investigation of such a complaint;

(2) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(3) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(4) The foster parent has advocated for services on behalf of the foster child;

(5) The foster parent has sought to adopt a foster child in the foster parent's care; or

(6) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW,

may file a complaint with the office of the family and children's ombudsman. The office of the family and children's ombudsman shall include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department or supervising agency and foster parents.

Sec. 82. RCW 74.13.334 and 2004 c 181 s 2 are each amended to read as follows:

The department and supervising agency shall develop procedures for responding to recommendations of the office of the family and children's ombudsman as a result of any and all complaints filed by foster parents under RCW 74.13.333.

Sec. 83. RCW 74.13.500 and 2005 c 274 s 351 are each amended to read as follows:

(1) Consistent with the provisions of chapter 42.56 RCW and applicable federal law, the secretary, or the secretary's designee, shall disclose information regarding the abuse or neglect of a child, the investigation of the abuse, neglect, or near fatality of a child, and any services related to the abuse or neglect of a child if any one of the following factors is present:

(a) The subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained by the department in its case and management information system;

(b) The investigation of the abuse or neglect of the child by the department or the provision of services by the department or a supervising agency has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a prosecuting attorney, any other state or local investigative agency or official, or by a judge of the superior court;

(c) There has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which such individual is named as the subject of the report; or

(d) The child named in the report has died and the child's death resulted from abuse or neglect or the child was in the care of, or receiving services from the department or a supervising agency at the time of death or within twelve months before death.

(2) The secretary is not required to disclose information if the factors in subsection (1) of this section are present if he or she specifically determines the disclosure is contrary to the best interests of the child, the child's siblings, or other children in the household.

(3) Except for cases in subsection (1)(d) of this section, requests for information under this section shall specifically

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identify the case about which information is sought and the facts that support a determination that one of the factors specified in subsection (1) of this section is present.

(4) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition. The secretary is under no obligation to have an act certified by a physician in order to comply with this section.

Sec. 84. RCW 74.13.515 and 2005 c 274 s 352 are each amended to read as follows:

For purposes of RCW 74.13.500(1)(d), the secretary must make the fullest possible disclosure consistent with chapter 42.56 RCW and applicable federal law in cases of all fatalities of children who were in the care of, or receiving services from, the department or a supervising agency at the time of their death or within the twelve months previous to their death.

If the secretary specifically determines that disclosure of the name of the deceased child is contrary to the best interests of the child's siblings or other children in the household, the secretary may remove personally identifying information.

For the purposes of this section, "personally identifying information" means the name, street address, social security number, and day of birth of the child who died and of private persons who are relatives of the child named in child welfare records. "Personally identifying information" shall not include the month or year of birth of the child who has died. Once this personally identifying information is removed, the remainder of the records pertaining to a child who has died must be released regardless of whether the remaining facts in the records are embarrassing to the unidentifiable other private parties or to identifiable public workers who handled the case.

Sec. 85. RCW 74.13.525 and 2005 c 274 s 353 are each amended to read as follows:

The department or supervising agency, when acting in good faith, is immune from any criminal or civil liability, except as provided under RCW 42.56.550, for any action taken under RCW 74.13.500 through 74.13.520.

Sec. 86. RCW 74.13.530 and 2001 c 318 s 4 are each amended to read as follows:

(1) No child may be placed or remain in a specific out-of-home placement under this chapter or chapter 13.34 RCW when there is a conflict of interest on the part of any adult residing in the home in which the child is to be or has been placed. A conflict of interest exists when:

(a) There is an adult in the home who, as a result of: (i) His or her employment; and (ii) an allegation of abuse or neglect of the child, conducts or has conducted an investigation of the allegation; or

(b) The child has been, is, or is likely to be a witness in any pending cause of action against any adult in the home when the cause includes: (i) An allegation of abuse or neglect against the child or any sibling of the child; or (ii) a claim of damages resulting from wrongful interference with the parent-child relationship of the child and his or her biological or adoptive parent.

(2) For purposes of this section, "investigation" means the exercise of professional judgment in the review of allegations of abuse or neglect by: (a) Law enforcement personnel; (b) persons employed by, or under contract with, the state; (c) persons licensed to practice law and their employees; and (d) mental health professionals as defined in chapter 71.05 RCW.

(3) The prohibition set forth in subsection (1) of this section may not be waived or deferred by the department or a supervising agency under any circumstance or at the request of

any person, regardless of who has made the request or the length of time of the requested placement.

Sec. 87. RCW 74.13.560 and 2003 c 112 s 3 are each amended to read as follows:

The administrative regions of the department and the supervising agencies shall develop protocols with the respective school districts in their regions specifying specific strategies for communication, coordination, and collaboration regarding the status and progress of foster children placed in the region, in order to maximize the educational continuity and achievement for foster children. The protocols shall include methods to assure effective sharing of information consistent with RCW 28A.225.330.

Sec. 88. RCW 74.13.590 and 2003 c 112 s 6 are each amended to read as follows:

The department and supervising agencies shall perform the tasks provided in RCW 74.13.550 through 74.13.580 based on available resources.

Sec. 89. RCW 74.13.600 and 2003 c 284 s 1 are each amended to read as follows:

(1) For the purposes of this section, "kin" means persons eighteen years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and means: (a) Any person denoted by the prefix "grand" or "great"; (b) sibling, whether full, half, or step; (c) uncle or aunt; (d) nephew or niece; or (e) first cousin.

(2) The department and supervising agencies shall plan, design, and implement strategies to prioritize the placement of children with willing and able kin when out-of-home placement is required.

These strategies must include at least the following:

(a) Development of standardized, statewide procedures to be used by supervising agencies when searching for kin of children prior to out-of-home placement. The procedures must include a requirement that documentation be maintained in the child's case record that identifies kin, and documentation that identifies the assessment criteria and procedures that were followed during all kin searches. The procedures must be used when a child is placed in out-of-home care under authority of chapter 13.34 RCW, when a petition is filed under RCW 13.32A.140, or when a child is placed under a voluntary placement agreement. To assist with implementation of the procedures, the department or supervising agencies shall request that the juvenile court require parents to disclose to the ~~((department))~~ agencies all contact information for available and appropriate kin within two weeks of an entered order. For placements under signed voluntary agreements, the department and supervising agencies shall encourage the parents to disclose to the department and agencies all contact information for available and appropriate kin within two weeks of the date the parent signs the voluntary placement agreement.

(b) Development of procedures for conducting active outreach efforts to identify and locate kin during all searches. The procedures must include at least the following elements:

(i) Reasonable efforts to interview known kin, friends, teachers, and other identified community members who may have knowledge of the child's kin, within sixty days of the child entering out-of-home care;

(ii) Increased use of those procedures determined by research to be the most effective methods of promoting reunification efforts, permanency planning, and placement decisions;

(iii) Contacts with kin identified through outreach efforts and interviews under this subsection as part of permanency planning activities and change of placement discussions;

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(iv) Establishment of a process for ongoing contact with kin who express interest in being considered as a placement resource for the child; and

(v) A requirement that when the decision is made to not place the child with any kin, the department or supervising agency provides documentation as part of the child's individual service and safety plan that clearly identifies the rationale for the decision and corrective action or actions the kin must take to be considered as a viable placement option.

(3) Nothing in this section shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or the child or family is not eligible for such services.

Sec. 90. RCW 74.13.640 and 2008 c 211 s 1 are each amended to read as follows:

(1) The department (~~(of social and health services)~~) shall conduct a child fatality review in the event of an unexpected death of a minor in the state who is in the care of or receiving services described in chapter 74.13 RCW from the department or a supervising agency or who has been in the care of or received services described in chapter 74.13 RCW from the department or a supervising agency within one year preceding the minor's death.

(2) Upon conclusion of a child fatality review required pursuant to subsection (1) of this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review, unless an extension has been granted by the governor. Reports shall be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section shall be posted and maintained.

(3) The department shall develop and implement procedures to carry out the requirements of subsections (1) and (2) of this section.

(4) In the event a child fatality is the result of apparent abuse or neglect by the child's parent or caregiver, the department shall ensure that the fatality review team is comprised of individuals who had no previous involvement in the case and whose professional expertise is pertinent to the dynamics of the case.

(5) In the event of a near-fatality of a child who is in the care of or receiving services described in this chapter from the department or who has been in the care of or received services described in this chapter from the department within one year preceding the near-fatality, the department shall promptly notify the office of the family and children's ombudsman.

Sec. 91. RCW 74.13.650 and 2007 c 220 s 7 are each amended to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The ~~((foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement))~~ department shall enter into performance-based contracts with supervising agencies to provide this program.

Sec. 92. RCW 74.13.670 and 2007 c 220 s 5 are each amended to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise (~~(wherein)~~) in which:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, and:

(i) The child is a sexually reactive youth, exhibits high-risk behaviors, or is physically assaultive or physically aggressive as defined in RCW 74.13.280, and this information and the child's prior behavior was not disclosed to the care provider as required by RCW 74.13.280; and

(ii) The care provider did not know or have reason to know that the child needed supervision as a sexually reactive or physically assaultive or physically aggressive youth, or because of a documented history of high-risk behaviors, as a result of the care provider's involvement with or independent knowledge of the child or training and experience; or

(b) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation, and the care provider was acting in good faith and did not know or have reason to know that reasonable control or supervision of the child was necessary to prevent harm or risk of harm to the child or other persons.

(2) Allegations of child abuse or neglect that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

NEW SECTION. Sec. 93. RCW 74.13.085, 74.13.0902, 74.13.095, and 74.15.031 are each recodified as new sections in chapter 43.215 RCW.

NEW SECTION. Sec. 94. RCW 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170 are each recodified as a new chapter in Title 74 RCW.

NEW SECTION. Sec. 95. Section 62 of this act expires June 30, 2014.

NEW SECTION. Sec. 96. The following acts or parts of acts are each repealed:

(1) RCW 13.34.803 (Drug-affected and alcohol-affected infants--Comprehensive plan--Report) and 1998 c 314 s 40;

(2) RCW 13.34.805 (Drug-affected infants--Study) and 1998 c 314 s 31;

(3) RCW 13.34.8051 (Drug-affected infants--Study--Alcohol-affected infants to be included) and 1998 c 314 s 32;

(4) RCW 13.34.810 (Implementation of chapter 314, Laws of 1998) and 1998 c 314 s 48;

(5) RCW 26.44.230 (Abuse of adolescents--Reviews and reports) and 2005 c 345 s 2;

(6) RCW 74.13.200 (Demonstration project for protection, care, and treatment of children at-risk of abuse or neglect) and 1979 ex.s. c 248 s 1;

(7) RCW 74.13.210 (Project day care center--Definition) and 1979 ex.s. c 248 s 2;

(8) RCW 74.13.220 (Project services) and 1979 ex.s. c 248 s 3;

(9) RCW 74.13.230 (Project shall utilize community services) and 1979 ex.s. c 248 s 4;

(10) RCW 74.13.340 (Foster parent liaison) and 1997 c 272 s 2;

(11) RCW 74.13.630 (Family decision meetings) and 2004 c 182 s 2; and

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(12) RCW 74.13.800 (Intensive resource home pilot) and 2008 c 281 s 2.

NEW SECTION. Sec. 97. (1) Except for sections 1 through 8 of this act, this act takes effect July 1, 2011.

(2) Sections 1 through 7 of this act take effect July 1, 2010.

(3) Section 8 of 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.

NEW SECTION. Sec. 98. This act shall be in effect only if funds are specifically appropriated for this purpose."

On page 1, line 2 of the title, after "reforms;" strike the remainder of the title and insert "amending RCW 74.13.020, 74.15.010, 74.15.020, 74.15.050, 74.15.100, 26.44.020, 26.44.200, 13.34.025, 13.34.030, 13.34.065, 13.34.067, 13.34.094, 13.34.096, 13.34.125, 13.34.145, 13.34.155, 13.34.174, 13.34.176, 13.34.180, 13.34.210, 13.34.215, 13.34.230, 13.34.233, 13.34.245, 13.34.320, 13.34.330, 13.34.340, 13.34.350, 13.34.370, 13.34.380, 13.34.385, 13.34.390, 13.34.400, 41.06.142, 74.13.010, 74.13.031, 74.13.0311, 74.13.032, 74.13.036, 74.13.037, 74.13.042, 74.13.045, 74.13.055, 74.13.060, 74.13.065, 74.13.075, 74.13.077, 74.13.096, 74.13.103, 74.13.106, 74.13.109, 74.13.124, 74.13.136, 74.13.165, 74.13.170, 74.13.250, 74.13.283, 74.13.285, 74.13.288, 74.13.289, 74.13.300, 74.13.310, 74.13.315, 74.13.320, 74.13.325, 74.13.333, 74.13.334, 74.13.500, 74.13.515, 74.13.525, 74.13.530, 74.13.560, 74.13.590, 74.13.600, 74.13.640, 74.13.650, and 74.13.670; reenacting and amending RCW 74.15.030, 13.34.130, 13.34.136, 13.34.138, and 74.13.280; adding new sections to chapter 74.13 RCW; adding a new section to chapter 43.10 RCW; adding a new section to chapter 26.44 RCW; creating a new section; recodifying RCW 74.13.085, 74.13.0902, 74.13.095, 74.15.031, 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170; repealing RCW 13.34.803, 13.34.805, 13.34.8051, 13.34.810, 26.44.230, 74.13.200, 74.13.210, 74.13.220, 74.13.230, 74.13.340, 74.13.630, and 74.13.800; providing effective dates; providing expiration dates; and declaring an emergency."

The President declared the question before the Senate to be the motion by Senator Hargrove to not adopt the committee striking amendment by the Committee on Ways & Means to Second Substitute House Bill No. 2106.

The motion by Senator Hargrove carried and the committee striking amendment was not adopted by voice vote.

MOTION

Senator Hargrove moved that the following striking amendment by Senator Hargrove and others be adopted:

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. A new section is added to chapter 74.13 RCW to read as follows:

The legislature declares that the safety and well-being of children and families is essential to the social and economic health of Washington. It is the duty of the state to provide children at risk of out-of-home placement and their families with reasonable opportunities to access supportive services that enhance their safety and well-being. The legislature directs the programmatic and administrative changes required in this act to be accomplished in conformance with this foregoing principle.

The legislature finds that research in the area of child safety and well-being supports the conclusion that a restructuring of the administration and delivery of child welfare services through the use of performance-based contracts can enhance safety and well-being, when done so in a careful, well-planned and collaborative manner.

The legislature intends to encourage broad participation by interested entities in the bidding process. The legislature directs that the department retain those positions necessary to provide child protective and investigative services and to administer performance-based contracts.

The legislature further intends that the programmatic and administrative changes contained in this act have the result of reducing racial disproportionality in the child welfare system and racial disparities in child outcomes.

The legislature, in creating the committee in section 8 of this act, is establishing the mechanism to design, in collaboration with the executive and judicial branches and all affected entities, the transition to performance-based contracts in the delivery of out-of-home care and case management services.

Sec. 2. RCW 74.13.020 and 1999 c 267 s 7 are each amended to read as follows:

~~(As used in Title 74 RCW, child welfare services shall be defined as public social services including adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:~~

~~(1) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;~~

~~(2) Protecting and caring for dependent or neglected children;~~

~~(3) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children with services designed to resolve such conflicts;~~

~~(4) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;~~

~~(5) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities;~~

~~As used in this chapter, child means a person less than eighteen years of age.~~

~~The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the plan.)~~

For purposes of this chapter:

(1) "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act.

(2) "Child" means a person less than eighteen years of age.

(3) "Child protective services" has the same meaning as in RCW 26.44.020.

(4) "Child welfare services" means social services including voluntary and in-home services, out-of-home care, case management, and adoption services which strengthen, supplement, or substitute for, parental care and supervision for the purpose of:

(a) Preventing or remedying, or assisting in the solution of problems which may result in families in conflict, or the neglect, abuse, exploitation, or criminal behavior of children;

(b) Protecting and caring for dependent, abused, or neglected children;

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(c) Assisting children who are in conflict with their parents, and assisting parents who are in conflict with their children, with services designed to resolve such conflicts;

(d) Protecting and promoting the welfare of children, including the strengthening of their own homes where possible, or, where needed;

(e) Providing adequate care of children away from their homes in foster family homes or day care or other child care agencies or facilities.

"Child welfare services" does not include child protection services.

(5) "Committee" means the child welfare transformation design committee.

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

(7) "Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.

(8) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(9) "Performance-based contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.

(10) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(11) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(12) "Supervising agency" means an agency licensed by the state under RCW 74.15.090, or an Indian tribe under RCW 74.15.190, that has entered into a performance-based contract with the department to provide child welfare services.

NEW SECTION. Sec. 3. A new section is added to chapter 74.13 RCW to read as follows:

(1) No later than January 1, 2011, the department shall convert its current contracts with providers into performance-based contracts. In accomplishing this conversion, the department shall decrease the total number of contracts it uses to purchase services from providers.

(2) No later than July 1, 2012:

(a) In the demonstration sites selected under section 8(4)(a) of this act, child welfare services shall be provided by supervising agencies with whom the department has entered into performance-based contracts. Supervising agencies may enter into subcontracts with other licensed agencies; and

(b) Except as provided in subsection (4) of this section, and notwithstanding any law to the contrary, the department may not directly provide child welfare services to families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act.

(3) No later than July 1, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act, the department is responsible for only the following:

(a) Monitoring the quality of services for which the department contracts under this chapter;

(b) Ensuring that the services are provided in accordance with federal law and the laws of this state, including the Indian child welfare act;

(c) Providing child protection functions and services, including intake and investigation of allegations of child abuse or neglect, emergency shelter care functions under RCW 13.34.050, and referrals to appropriate providers; and

(d) Issuing licenses pursuant to chapter 74.15 RCW.

(4) No later than July 1, 2012, for families and children provided child welfare services by supervising agencies in the demonstration sites selected under section 8(4)(a) of this act, the department may provide child welfare services only in an emergency or as a provider of last resort. The department shall adopt rules describing the circumstances under which the department may provide those services. For purposes of this section, "provider of last resort" means the department is unable to contract with a private agency to provide child welfare services in a particular geographic area or, after entering into a contract with a private agency, either the contractor or the department terminates the contract.

(5) For purposes of this chapter, on and after September 1, 2010, performance-based contracts shall be structured to hold the supervising agencies accountable for achieving the following goals in order of importance: Child safety; child permanency, including reunification; and child well-being.

(6) A federally recognized tribe located in this state may enter into a performance-based contract with the department to provide child welfare services to Indian children whether or not they reside on a reservation.

NEW SECTION. Sec. 4. A new section is added to chapter 74.13 RCW to read as follows:

Pursuant to RCW 41.06.142(3), performance-based contracting under section 3 of this act is expressly mandated by the legislature and is not subject to the processes set forth in RCW 41.06.142 (1), (4), and (5).

A continuation or expansion of delivery of child welfare services under the provisions of section 10 of this act shall be considered expressly mandated by the legislature and not subject to the provisions of RCW 41.06.142 (1), (4), and (5).

NEW SECTION. Sec. 5. A new section is added to chapter 74.13 RCW to read as follows:

Children whose cases are managed by a supervising agency remain under the care and placement authority of the state.

NEW SECTION. Sec. 6. A new section is added to chapter 74.13 RCW to read as follows:

Performance-based contracts with private nonprofit entities who otherwise meet the definition of supervising agency shall receive primary preference. This section does not apply to Indian tribes.

NEW SECTION. Sec. 7. A new section is added to chapter 43.10 RCW to read as follows:

The office of the attorney general shall provide, or cause to be provided, legal services in only dependency or termination of parental rights matters to supervising agencies with whom the department of social and health services has entered into performance-based contracts to provide child welfare services as soon as the contracts become effective.

NEW SECTION. Sec. 8. A new section is added to chapter 74.13 RCW to read as follows:

(1)(a) The child welfare transformation design committee is established, with members as provided in this subsection.

(i) The governor or the governor's designee;

(ii) Four private agencies that, as of the effective date of this section, provide child welfare services to children and families referred to them by the department. Two agencies must be headquartered in western Washington and two must be headquartered in eastern Washington. Two agencies must have an annual budget of at least one million state-contracted dollars

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and two must have an annual budget of less than one million state-contracted dollars;

(iii) The assistant secretary of the children's administration in the department;

(iv) Two regional administrators in the children's administration selected by the assistant secretary, one from one of the department's administrative regions one or two, and one from one of the department's administrative regions three, four, five, or six;

(v) The administrator for the division of licensed resources in the children's administration;

(vi) Two nationally recognized experts in performance-based contracts;

(vii) The attorney general or the attorney general's designee;

(viii) A representative of the collective bargaining unit that represents the largest number of employees in the children's administration;

(ix) A representative from the office of the family and children's ombudsman;

(x) Four representatives from the Indian policy advisory committee convened by the department's office of Indian policy and support services;

(xi) Two currently elected or former superior court judges with significant experience in dependency matters, selected by the superior court judge's association;

(xii) One representative from partners for our children affiliated with the University of Washington school of social work;

(xiii) A member of the Washington state racial disproportionality advisory committee;

(xiv) A foster parent; and

(xv) A parent representative who has had personal experience with the dependency system.

(b) The president of the senate and the speaker of the house of representatives shall jointly appoint the members under (a)(ii), (xiv), and (xv) of this subsection.

(c) The representative from partners for our children shall convene the initial meeting of the committee no later than June 15, 2009.

(d) The cochairs of the committee shall be the assistant secretary for the children's administration and another member selected by a majority vote of those members present at the initial meeting.

(2) The committee shall establish a transition plan containing recommendations to the legislature and the governor consistent with this section for the provision of child welfare services by supervising agencies pursuant to section 3 of this act.

(3) The plan shall include the following:

(a) A model or framework for performance-based contracts to be used by the department that clearly defines:

(i) The target population;

(ii) The referral and exit criteria for the services;

(iii) The child welfare services including the use of evidence-based services and practices to be provided by contractors;

(iv) The roles and responsibilities of public and private agency workers in key case decisions;

(v) Contract performance and outcomes, including those related to eliminating racial disparities in child outcomes;

(vi) That supervising agencies will provide culturally competent service;

(vii) How to measure whether each contractor has met the goals listed in section 3(5) of this act; and

(viii) Incentives to meet performance outcomes;

(b) A method by which the department will substantially reduce its current number of contracts for child welfare services;

(c) A method or methods by which clients will access community-based services, how private supervising agencies will engage other services or form local service networks,

develop subcontracts, and share information and supervision of children;

(d) Methods to address the effects of racial disproportionality, as identified in the 2008 Racial Disproportionality Advisory Committee Report published by the Washington state institute for public policy in June 2008;

(e) Methods for inclusion of the principles and requirements of the centennial accord executed in November 2001, executed between the state of Washington and federally recognized tribes in Washington state;

(f) Methods for assuring performance-based contracts adhere to the letter and intent of the federal Indian child welfare act;

(g) Contract monitoring and evaluation procedures that will ensure that children and families are receiving timely and quality services and that contract terms are being implemented;

(h) A method or methods by which to ensure that the children's administration has sufficiently trained and experienced staff to monitor and manage performance-based contracts;

(i) A process by which to expand the capacity of supervising and other private agencies to meet the service needs of children and families in a performance-based contractual arrangement;

(j) A method or methods by which supervising and other private agencies can expand services in underserved areas of the state;

(k) The appropriate amounts and procedures for the reimbursement of supervising agencies given the proposed services restructuring;

(l) A method by which to access and enhance existing data systems to include contract performance information;

(m) A financing arrangement for the contracts that examines:

(i) The use of case rates or performance-based fee-for-service contracts that include incentive payments or payment schedules that link reimbursement to outcomes; and

(ii) Ways to reduce a contractor's financial risk that could jeopardize the solvency of the contractor, including consideration of the use of a risk-reward corridor that limits risk of loss and potential profits or the establishment of a statewide risk pool;

(n) A description of how the transition will impact the state's ability to obtain federal funding and examine options to further maximize federal funding opportunities and increased flexibility;

(o) A review of whether current administrative staffing levels in the regions should be continued when the majority of child welfare services are being provided by supervising agencies;

(p) A description of the costs of the transition, the initial start-up costs and the mechanisms to periodically assess the overall adequacy of funds and the fiscal impact of the changes, and the feasibility of the plan and the impact of the plan on department employees during the transition; and

(q) Identification of any statutory and regulatory revisions necessary to accomplish the transition.

(4)(a) The committee, with the assistance of the department, shall select two demonstration sites within which to implement this act. One site must be located on the eastern side of the state. The other site must be located on the western side of the state. Neither site must be wholly located in any of the department's administrative regions.

(b) The committee shall develop two sets of performance outcomes to be included in the performance-based contracts the department enters into with supervising agencies. The first set of outcomes shall be used for those cases transferred to a supervising agency over time. The second set of outcomes shall be used for new entrants to the child welfare system.

(c) The committee shall also identify methods for ensuring that comparison of performance between supervising agencies and the existing service delivery system takes into account the

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variation in the characteristics of the populations being served as well as historical trends in outcomes for those populations.

(5) The committee shall determine the appropriate size of the child and family populations to be provided services under performance-based contracts with supervising agencies. The committee shall also identify the time frame within which cases will be transferred to supervising agencies. The performance-based contracts entered into with supervising agencies shall encompass the provision of child welfare services to enough children and families in each demonstration site to allow for the assessment of whether there are meaningful differences, to be defined by the committee, between the outcomes achieved in the demonstration sites and the comparison sites or populations. To ensure adequate statistical power to assess these differences, the populations served shall be large enough to provide a probability greater than seventy percent that meaningful difference will be detected and a ninety-five percent probability that observed differences are not due to chance alone.

(6) The committee shall also prepare as part of the plan a recommendation as to how to implement this act so that full implementation of this act is achieved no later than June 30, 2012.

(7) The committee shall prepare the plan to manage the delivery of child welfare services in a manner that achieves coordination of the services and programs that deliver primary prevention services.

(8) Beginning June 30, 2009, the committee shall report quarterly to the governor and the legislative children's oversight committee established in RCW 44.04.220. From June 30, 2012, until January 1, 2015, the committee need only report twice a year. The committee shall report on its progress in meeting its duties under subsections (2) and (3) of this section and on any other matters the committee or the legislative children's oversight committee or the governor deems appropriate. The portion of the plan required in subsection (6) of this section shall be due to the legislative children's oversight committee on or before June 1, 2010. The reports shall be in written form.

(9) The committee, by majority vote, may establish advisory committees as it deems necessary.

(10) All state executive branch agencies and the agencies with whom the department contracts for child welfare services shall cooperate with the committee and provide timely information as the chair or cochairs may request. Cooperation by the children's administration must include developing and scheduling training for supervising agencies to access data and information necessary to implement and monitor the contracts.

(11) It is expected that the administrative costs for the committee will be supported through private funds.

(12) Staff support for the committee shall be provided jointly by partners for our children and legislative staff.

(13) The committee is subject to chapters 42.30 (open public meetings act) and 42.52 (ethics in public service) RCW.

(14) This section expires July 1, 2015.

NEW SECTION. Sec. 9. A new section is added to chapter 74.13 RCW to read as follows:

(1) Based upon the recommendations of the child welfare transformation design committee, including the two sets of outcomes developed by the committee under section 8(4)(b) of this act, the Washington state institute for public policy is to conduct a review of measurable effects achieved by the supervising agencies and compare those measurable effects with the existing services offered by the state. The report on the measurable effects shall be provided to the governor and the legislature no later than April 1, 2015.

(2) No later than June 30, 2011, the Washington state institute for public policy shall provide the legislature and the governor an initial report on the department's conversion to the use of performance-based contracts as provided in section 3(1) of this act. No later than June 30, 2012, the Washington state institute for public policy shall provide the governor and the

legislature with a second report on the department's conversion of its contracts to performance-based contracts.

(3) The department shall respond to the Washington institute for public policy's request for data and other information with which to complete these reports in a timely manner.

NEW SECTION. Sec. 10. A new section is added to chapter 74.13 RCW to read as follows:

Not later than June 1, 2015, the governor shall, based on the report by the Washington state institute for public policy, determine whether to expand this act to the remainder of the state or terminate this act. The governor shall inform the legislature of his or her decision within seven days of the decision. The department shall, regardless of the decision of the governor regarding the delivery of child welfare services, continue to purchase services through the use of performance-based contracts.

NEW SECTION. Sec. 11. The department of social and health services, the office of financial management, and the caseload forecast council shall develop a proposal for submission to the legislature and the governor for the reinvestment of savings, including savings in reduced foster care caseloads, into evidence-based prevention and intervention programs designed to prevent the need for or reduce the duration of foster care placements. The proposal must be submitted to the legislature and the governor by November 30, 2010, and shall include sufficient detail regarding accounting, budgeting, and allocation or other procedures for legislative consideration and approval.

Sec. 12. RCW 74.15.010 and 1995 c 302 s 2 are each amended to read as follows:

The purpose of chapter 74.15 RCW and RCW 74.13.031 is:

(1) To safeguard the health, safety, and well-being of children, expectant mothers and developmentally disabled persons receiving care away from their own homes, which is paramount over the right of any person to provide care;

(2) To strengthen and encourage family unity and to sustain parental rights and responsibilities to the end that foster care is provided only when a child's family, through the use of all available resources, is unable to provide necessary care;

(3) To promote the development of a sufficient number and variety of adequate (~~child-care~~) foster family homes and maternity-care facilities, both public and private, through the cooperative efforts of public and (~~voluntary~~) supervising agencies and related groups;

(4) To provide consultation to agencies caring for children, expectant mothers or developmentally disabled persons in order to help them to improve their methods of and facilities for care;

(5) To license agencies as defined in RCW 74.15.020 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 agencies caring for children, expectant mothers and developmentally disabled persons.

Sec. 13. RCW 74.15.020 and 2007 c 412 s 1 are each amended to read as follows:

For the purpose of this chapter 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:

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

(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;

(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;

(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;

(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;

(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;

(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;

(h) "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;

(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;

(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, second 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;

(v) Relatives, as named in (i), (ii), (iii), or (iv) of this subsection (2)(a), of any half sibling of the child; or

(vi) 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 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) 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;

(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 citizenship and immigration (~~and naturalization~~) services, or persons who have the care of such an international child in their home;

(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;

(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;

(h) Licensed physicians or lawyers;

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

(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;

(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;

(l) An agency operated by any unit of local, state, or federal government or an agency licensed by an Indian tribe pursuant to RCW 74.15.190;

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

(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) (~~"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~~

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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) "Performance-based contracts" or "contracting" means the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes. Contracts may also include provisions that link the performance of the contractor to the level and timing of the reimbursement.

(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.

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

(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.

(10) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(11) "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))~~ workforce investment act which administers private industry councils and the job corps; vocational rehabilitation; and volunteer programs.

Sec. 14. RCW 74.15.030 and 2007 c 387 s 5 and 2007 c 17 s 14 are each reenacted and 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))~~ under this chapter, or because of any other relevant 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) Obtaining background information and any out-of-state equivalent, to determine whether the applicant or service provider is disqualified and to determine the character, competence, and suitability of an agency, the agency's employees, volunteers, and other persons associated with an agency;

(c) Conducting background checks for those who will or may have unsupervised access to children, expectant mothers, or individuals with a developmental disability;

(d) Obtaining child protective services information or records maintained in the department's ~~((case management))~~ information technology system. ~~((Not))~~ Unfounded allegations of child abuse or neglect as defined in RCW 26.44.020 ~~((may))~~ shall be disclosed to ~~((a child-placing agency, private adoption agency, or any other provider licensed))~~ supervising agencies under this chapter;

(e) Submitting a fingerprint-based background check through the Washington state patrol under chapter 10.97 RCW and through the federal bureau of investigation for:

(i) Agencies and their staff, volunteers, students, and interns when the agency is seeking license or relicensure;

(ii) Foster care and adoption placements; and

(iii) Any adult living in a home where a child may be placed;

(f) If any adult living in the home has not resided in the state of Washington for the preceding five years, the department shall review any child abuse and neglect registries maintained by any state where the adult has resided over the preceding five years;

(g) The cost of fingerprint background check fees will be paid as required in RCW 43.43.837;

(h) National and state background information must be used 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 or expectant mothers;

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

(j) 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;

(k) 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;

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

(m) 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,

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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.

Sec. 15. RCW 74.15.050 and 1995 c 369 s 62 are each amended to read as follows:

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 children's services advisory committee 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 chapter 74.15 RCW and RCW 74.13.031, except foster-family homes and child-placing agencies, necessary to protect all persons residing therein from fire hazards;

(2) To make or cause to be made such inspections and investigations of agencies, other than foster-family homes or child-placing agencies, as he or she deems necessary;

(3) To make a periodic review of requirements under RCW 74.15.030(7) and to adopt necessary changes after consultation as required in subsection (1) of this section;

(4) To issue to applicants for licenses hereunder, other than foster-family homes or child-placing agencies, who comply with the requirements, a certificate of compliance, a copy of which shall be presented to the department (~~of social and health services~~) before a license shall be issued, except that (~~a provisional~~) an initial license may be issued as provided in RCW 74.15.120.

Sec. 16. RCW 74.15.100 and 2006 c 265 s 403 are each amended to read as follows:

Each agency or supervising 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

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licensee and the location stated in the application. For licensed foster-family homes having an acceptable history of child care, the license may remain in effect for two weeks after a move, except that this will apply only if the family remains intact.

Sec. 17. RCW 26.44.020 and 2007 c 220 s 1 are each amended to read as follows:

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

(1) "Abuse or neglect" means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

(2) "Child" or "children" means any person under the age of eighteen years of age.

(3) "Child protective services" means those services provided by the department designed to protect children from child abuse and neglect and safeguard such children from future abuse and neglect, and conduct investigations of child abuse and neglect reports. Investigations may be conducted regardless of the location of the alleged abuse or neglect. Child protective services includes referral to services to ameliorate conditions that endanger the welfare of children, the coordination of necessary programs and services relevant to the prevention, intervention, and treatment of child abuse and neglect, and services to children to ensure that each child has a permanent home. In determining whether protective services should be provided, the department shall not decline to provide such services solely because of the child's unwillingness or developmental inability to describe the nature and severity of the abuse or neglect.

(4) "Child protective services section" means the child protective services section of the department.

(5) "Clergy" means any regularly licensed or ordained minister, priest, or rabbi of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(6) "Court" means the superior court of the state of Washington, juvenile department.

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

(8) "Founded" means the determination following an investigation by the department that, based on available information, it is more likely than not that child abuse or neglect did occur.

(9) "Inconclusive" means the determination following an investigation by the department, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, child abuse or neglect did or did not occur.

(10) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment, or care.

(11) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(12) "Malice" or "maliciously" means an intent, wish, or design to intimidate, annoy, or injure another person. Such malice may be inferred from an act done in willful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a willful disregard of social duty.

(13) "Negligent treatment or maltreatment" means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists,

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evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

(14) "Pharmacist" means any registered pharmacist under chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(15) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatric medicine and surgery, optometry, chiropractic, nursing, dentistry, osteopathic medicine and surgery, or medicine and surgery or to provide other health services. The term "practitioner" includes a duly accredited Christian Science practitioner (~~PROVIDED, HOWEVER, THAT~~). A person who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner will not be considered, for that reason alone, a neglected person for the purposes of this chapter.

(16) "Professional school personnel" include, but are not limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(17) "Psychologist" means any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(18) "Screened-out report" means a report of alleged child abuse or neglect that the department has determined does not rise to the level of a credible report of abuse or neglect and is not referred for investigation.

(19) "Sexual exploitation" includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

(20) "Sexually aggressive youth" means a child who is defined in RCW 74.13.075(1)(b) as being a sexually aggressive youth.

(21) "Social service counselor" means anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support, or education of children, or providing social services to adults or families, including mental health, drug and alcohol treatment, and domestic violence programs, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(22) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that has entered into a performance-based contract with the department to provide child welfare services.

(23) "Unfounded" means the determination following an investigation by the department that available information indicates that, more likely than not, child abuse or neglect did not occur, or that there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur.

Sec. 18. RCW 26.44.200 and 2002 c 134 s 4 are each amended to read as follows:

A law enforcement agency in the course of investigating:

(1) An allegation under RCW 69.50.401 ~~((1))~~ (1) and (2) (a) through (e) relating to manufacture of methamphetamine; or (2) an allegation under RCW 69.50.440 relating to possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, pressurized ammonia gas, or pressurized ammonia gas solution with intent to manufacture methamphetamine, that discovers a child present at the site, shall contact the department immediately.

NEW SECTION. Sec. 19. A new section is added to chapter 26.44 RCW to read as follows:

Within existing resources, the department shall develop a curriculum designed to train child protective services staff in forensic techniques used for investigating allegations of child abuse or neglect.

Sec. 20. RCW 13.34.025 and 2007 c 410 s 2 are each amended to read as follows:

(1) The department ~~((of social and health services))~~ and supervising agencies shall develop methods for coordination of services to parents and children in child dependency cases. To the maximum extent possible under current funding levels, the department and supervising agencies must:

(a) Coordinate and integrate services to children and families, using service plans and activities that address the children's and families' multiple needs, including ensuring that siblings have regular visits with each other, as appropriate. Assessment criteria should screen for multiple needs;

(b) Develop treatment plans for the individual needs of the client in a manner that minimizes the number of contacts the client is required to make; and

(c) Access training for department and supervising agency staff to increase skills across disciplines to assess needs for mental health, substance abuse, developmental disabilities, and other areas.

(2) The department shall coordinate within the administrations of the department, and with contracted service providers including supervising agencies, to ensure that parents in dependency proceedings under this chapter receive priority access to remedial services recommended by the department or supervising agency in its social study or ordered by the court for the purpose of correcting any parental deficiencies identified in the dependency proceeding that are capable of being corrected in the foreseeable future. Services may also be provided to caregivers other than the parents as identified in RCW 13.34.138.

(a) For purposes of this chapter, remedial services are those services defined in the federal adoption and safe families act as time-limited family reunification services. Remedial services include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary child care and therapeutic services for families; and transportation to or from any of the above services and activities.

(b) The department shall provide funds for remedial services if the parent is unable to pay to the extent funding is appropriated in the operating budget or otherwise available to the department for such specific services. As a condition for receiving funded remedial services, the court may inquire into the parent's ability to pay for all or part of such services or may require that the parent make appropriate applications for funding to alternative funding sources for such services.

(c) If court-ordered remedial services are unavailable for any reason, including lack of funding, lack of services, or language barriers, the department or supervising agency shall promptly notify the court that the parent is unable to engage in the treatment due to the inability to access such services.

(d) This section does not create an entitlement to services and does not create judicial authority to order the provision of services except for the specific purpose of making reasonable efforts to remedy parental deficiencies identified in a dependency proceeding under this chapter.

Sec. 21. RCW 13.34.030 and 2003 c 227 s 2 are each amended to read as follows:

For purposes of this chapter:

(1) "Abandoned" means when the child's parent, guardian, or other custodian has expressed, either by statement or conduct, an intent to forego, for an extended period, parental rights or responsibilities despite an ability to exercise such rights and responsibilities. If the court finds that the petitioner has

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exercised due diligence in attempting to locate the parent, no contact between the child and the child's parent, guardian, or other custodian for a period of three months creates a rebuttable presumption of abandonment, even if there is no expressed intent to abandon.

(2) "Child" and "juvenile" means any individual under the age of eighteen years.

(3) "Current placement episode" means the period of time that begins with the most recent date that the child was removed from the home of the parent, guardian, or legal custodian for purposes of placement in out-of-home care and continues until: (a) The child returns home; (b) an adoption decree, a permanent custody order, or guardianship order is entered; or (c) the dependency is dismissed, whichever occurs first.

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

(5) "Dependency guardian" means the person, nonprofit corporation, or Indian tribe appointed by the court pursuant to this chapter for the limited purpose of assisting the court in the supervision of the dependency.

((5)) (6) "Dependent child" means any child who:

(a) Has been abandoned;

(b) Is abused or neglected as defined in chapter 26.44 RCW by a person legally responsible for the care of the child; or

(c) Has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

((6)) (7) "Developmental disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism, or another neurological or other condition of an individual found by the secretary to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, which disability originates before the individual attains age eighteen, which has continued or can be expected to continue indefinitely, and which constitutes a substantial handicap to the individual.

((7)) (8) "Guardian" means the person or agency that: (a) Has been appointed as the guardian of a child in a legal proceeding other than a proceeding under this chapter; and (b) has the legal right to custody of the child pursuant to such appointment. The term "guardian" shall not include a "dependency guardian" appointed pursuant to a proceeding under this chapter.

((8)) (9) "Guardian ad litem" means a person, appointed by the court to represent the best interests of a child in a proceeding under this chapter, or in any matter which may be consolidated with a proceeding under this chapter. A "court-appointed special advocate" appointed by the court to be the guardian ad litem for the child, or to perform substantially the same duties and functions as a guardian ad litem, shall be deemed to be guardian ad litem for all purposes and uses of this chapter.

((9)) (10) "Guardian ad litem program" means a court-authorized volunteer program, which is or may be established by the superior court of the county in which such proceeding is filed, to manage all aspects of volunteer guardian ad litem representation for children alleged or found to be dependent. Such management shall include but is not limited to: Recruitment, screening, training, supervision, assignment, and discharge of volunteers.

((10)) (11) "Indigent" means a person who, at any stage of a court proceeding, is:

(a) Receiving one of the following types of public assistance: Temporary assistance for needy families, general assistance, poverty-related veterans' benefits, food stamps or food stamp benefits transferred electronically, refugee resettlement benefits, medicaid, or supplemental security income; or

(b) Involuntarily committed to a public mental health facility; or

(c) Receiving an annual income, after taxes, of one hundred twenty-five percent or less of the federally established poverty level; or

(d) Unable to pay the anticipated cost of counsel for the matter before the court because his or her available funds are insufficient to pay any amount for the retention of counsel.

((11)) (12) "Out-of-home care" means placement in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW or placement in a home, other than that of the child's parent, guardian, or legal custodian, not required to be licensed pursuant to chapter 74.15 RCW.

((12)) (13) "Preventive services" means preservation services, as defined in chapter 74.14C RCW, and other reasonably available services, including housing services, capable of preventing the need for out-of-home placement while protecting the child. Housing services may include, but are not limited to, referrals to federal, state, local, or private agencies or organizations, assistance with forms and applications, or financial subsidies for housing.

((13)) (14) "Shelter care" means temporary physical care in a facility licensed pursuant to RCW 74.15.030 or in a home not required to be licensed pursuant to RCW 74.15.030.

((14)) (15) "Sibling" means a child's birth brother, birth sister, adoptive brother, adoptive sister, half-brother, or half-sister, or as defined by the law or custom of the Indian child's tribe for an Indian child as defined in 25 U.S.C. Sec. 1903(4).

((15)) (16) "Social study" means a written evaluation of matters relevant to the disposition of the case and shall contain the following information:

(a) A statement of the specific harm or harms to the child that intervention is designed to alleviate;

(b) A description of the specific services and activities, for both the parents and child, that are needed in order to prevent serious harm to the child; the reasons why such services and activities are likely to be useful; the availability of any proposed services; and the agency's overall plan for ensuring that the services will be delivered. The description shall identify the services chosen and approved by the parent;

(c) If removal is recommended, a full description of the reasons why the child cannot be protected adequately in the home, including a description of any previous efforts to work with the parents and the child in the home; the in-home treatment programs that have been considered and rejected; the preventive services that have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home; and the parents' attitude toward placement of the child;

(d) A statement of the likely harms the child will suffer as a result of removal;

(e) A description of the steps that will be taken to minimize the harm to the child that may result if separation occurs including an assessment of the child's relationship and emotional bond with any siblings, and the agency's plan to provide ongoing contact between the child and the child's siblings if appropriate; and

(f) Behavior that will be expected before determination that supervision of the family or placement is no longer necessary.

(17) "Supervising agency" means an agency licensed by the state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 with whom the department has entered into a performance-based contract to provide child welfare services as defined in RCW 74.13.020.

Sec. 22. RCW 13.34.065 and 2008 c 267 s 2 are each amended to read as follows:

(1)(a) When a child is taken into custody, the court shall hold a shelter care hearing within seventy-two hours, excluding Saturdays, Sundays, and holidays. The primary purpose of the shelter care hearing is to determine whether the child can be immediately and safely returned home while the adjudication of the dependency is pending.

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(b) Any parent, guardian, or legal custodian who for good cause is unable to attend the shelter care hearing may request that a subsequent shelter care hearing be scheduled. The request shall be made to the clerk of the court where the petition is filed prior to the initial shelter care hearing. Upon the request of the parent, the court shall schedule the hearing within seventy-two hours of the request, excluding Saturdays, Sundays, and holidays. The clerk shall notify all other parties of the hearing by any reasonable means.

(2)(a) If it is likely that the child will remain in shelter care longer than seventy-two hours, in those areas in which child welfare services are being provided by a supervising agency, the supervising agency shall assume case management responsibilities of the case. The department ~~((of social and health services))~~ or supervising agency shall submit a recommendation to the court as to the further need for shelter care in all cases in which ~~((it is the petitioner))~~ the child will remain in shelter care longer than the seventy-two hour period. In all other cases, the recommendation shall be submitted by the juvenile court probation counselor.

(b) All parties have the right to present testimony to the court regarding the need or lack of need for shelter care.

(c) Hearsay evidence before the court regarding the need or lack of need for shelter care must be supported by sworn testimony, affidavit, or declaration of the person offering such evidence.

(3)(a) At the commencement of the hearing, the court shall notify the parent, guardian, or custodian of the following:

(i) The parent, guardian, or custodian has the right to a shelter care hearing;

(ii) The nature of the shelter care hearing, the rights of the parents, and the proceedings that will follow; and

(iii) If the parent, guardian, or custodian is not represented by counsel, the right to be represented. If the parent, guardian, or custodian is indigent, the court shall appoint counsel as provided in RCW 13.34.090; and

(b) If a parent, guardian, or legal custodian desires to waive the shelter care hearing, the court shall determine, on the record and with the parties present, whether such waiver is knowing and voluntary. A parent may not waive his or her right to the shelter care hearing unless he or she appears in court and the court determines that the waiver is knowing and voluntary. Regardless of whether the court accepts the parental waiver of the shelter care hearing, the court must provide notice to the parents of their rights required under (a) of this subsection and make the finding required under subsection (4) of this section.

(4) At the shelter care hearing the court shall examine the need for shelter care and inquire into the status of the case. The paramount consideration for the court shall be the health, welfare, and safety of the child. At a minimum, the court shall inquire into the following:

(a) Whether the notice required under RCW 13.34.062 was given to all known parents, guardians, or legal custodians of the child. The court shall make an express finding as to whether the notice required under RCW 13.34.062 was given to the parent, guardian, or legal custodian. If actual notice was not given to the parent, guardian, or legal custodian and the whereabouts of such person is known or can be ascertained, the court shall order ~~((the supervising agency or))~~ the department ~~((of social and health services))~~ to make reasonable efforts to advise the parent, guardian, or legal custodian of the status of the case, including the date and time of any subsequent hearings, and their rights under RCW 13.34.090;

(b) Whether the child can be safely returned home while the adjudication of the dependency is pending;

(c) What efforts have been made to place the child with a relative;

(d) What services were provided to the family to prevent or eliminate the need for removal of the child from the child's home;

(e) Is the placement proposed by the department or supervising agency the least disruptive and most family-like setting that meets the needs of the child;

(f) Whether it is in the best interest of the child to remain enrolled in the school, developmental program, or child care the child was in prior to placement and what efforts have been made to maintain the child in the school, program, or child care if it would be in the best interest of the child to remain in the same school, program, or child care;

(g) Appointment of a guardian ad litem or attorney;

(h) Whether the child is or may be an Indian child as defined in 25 U.S.C. Sec. 1903, whether the provisions of the Indian child welfare act apply, and whether there is compliance with the Indian child welfare act, including notice to the child's tribe;

(i) Whether, as provided in RCW 26.44.063, restraining orders, or orders expelling an allegedly abusive household member from the home of a nonabusive parent, guardian, or legal custodian, will allow the child to safely remain in the home;

(j) Whether any orders for examinations, evaluations, or immediate services are needed. The court may not order a parent to undergo examinations, evaluation, or services at the shelter care hearing unless the parent agrees to the examination, evaluation, or service;

(k) The terms and conditions for parental, sibling, and family visitation.

(5)(a) The court shall release a child alleged to be dependent to the care, custody, and control of the child's parent, guardian, or legal custodian unless the court finds there is reasonable cause to believe that:

(i) After consideration of the specific services that have been provided, reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home; and

(ii)(A) The child has no parent, guardian, or legal custodian to provide supervision and care for such child; or

(B) The release of such child would present a serious threat of substantial harm to such child, notwithstanding an order entered pursuant to RCW 26.44.063; or

(C) The parent, guardian, or custodian to whom the child could be released has been charged with violating RCW 9A.40.060 or 9A.40.070.

(b) If the court does not release the child to his or her parent, guardian, or legal custodian, the court shall order placement with a relative, unless there is reasonable cause to believe the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. The relative must be willing and available to:

(i) Care for the child and be able to meet any special needs of the child;

(ii) Facilitate the child's visitation with siblings, if such visitation is part of the supervising agency's plan or is ordered by the court; and

(iii) Cooperate with the department or supervising agency in providing necessary background checks and home studies.

(c) If the child was not initially placed with a relative, and the court does not release the child to his or her parent, guardian, or legal custodian, the supervising agency shall make reasonable efforts to locate a relative pursuant to RCW 13.34.060(1).

(d) If a relative is not available, the court shall order continued shelter care or order placement with another suitable person, and the court shall set forth its reasons for the order. If the court orders placement of the child with a person not related to the child and not licensed to provide foster care, the placement is subject to all terms and conditions of this section that apply to relative placements.

(e) Any placement with a relative, or other person approved by the court pursuant to this section, shall be contingent upon cooperation with the department's or supervising agency's case plan and compliance with court orders related to the care and

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supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order is grounds for removal of the child from the home of the relative or other person, subject to review by the court.

(f) Uncertainty by a parent, guardian, legal custodian, relative, or other suitable person that the alleged abuser has in fact abused the child shall not, alone, be the basis upon which a child is removed from the care of a parent, guardian, or legal custodian under (a) of this subsection, nor shall it be a basis, alone, to preclude placement with a relative under (b) of this subsection or with another suitable person under (d) of this subsection.

(6)(a) A shelter care order issued pursuant to this section shall include the requirement for a case conference as provided in RCW 13.34.067. However, if the parent is not present at the shelter care hearing, or does not agree to the case conference, the court shall not include the requirement for the case conference in the shelter care order.

(b) If the court orders a case conference, the shelter care order shall include notice to all parties and establish the date, time, and location of the case conference which shall be no later than thirty days before the fact-finding hearing.

(c) The court may order another conference, case staffing, or hearing as an alternative to the case conference required under RCW 13.34.067 so long as the conference, case staffing, or hearing ordered by the court meets all requirements under RCW 13.34.067, including the requirement of a written agreement specifying the services to be provided to the parent.

(7)(a) A shelter care order issued pursuant to this section may be amended at any time with notice and hearing thereon. The shelter care decision of placement shall be modified only upon a showing of change in circumstances. No child may be placed in shelter care for longer than thirty days without an order, signed by the judge, authorizing continued shelter care.

(b)(i) An order releasing the child on any conditions specified in this section may at any time be amended, with notice and hearing thereon, so as to return the child to shelter care for failure of the parties to conform to the conditions originally imposed.

(ii) The court shall consider whether nonconformance with any conditions resulted from circumstances beyond the control of the parent, guardian, or legal custodian and give weight to that fact before ordering return of the child to shelter care.

(8)(a) If a child is returned home from shelter care a second time in the case, or if the supervisor of the caseworker deems it necessary, the multidisciplinary team may be reconvened.

(b) If a child is returned home from shelter care a second time in the case a law enforcement officer must be present and file a report to the department.

Sec. 23. RCW 13.34.067 and 2004 c 147 s 1 are each amended to read as follows:

(1)(a) Following shelter care and no later than thirty days prior to fact-finding, the department or supervising agency shall convene a case conference as required in the shelter care order to develop and specify in a written service agreement the expectations of both the department or supervising agency and the parent regarding voluntary services for the parent.

(b) The case conference shall include the parent, counsel for the parent, caseworker, counsel for the state, guardian ad litem, counsel for the child, and any other person agreed upon by the parties. Once the shelter care order is entered, the department or supervising agency is not required to provide additional notice of the case conference to any participants in the case conference.

(c) The written service agreement expectations must correlate with the court's findings at the shelter care hearing. The written service agreement must set forth specific services to be provided to the parent.

(d) The case conference agreement must be agreed to and signed by the parties. The court shall not consider the content of

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the discussions at the case conference at the time of the fact-finding hearing for the purposes of establishing that the child is a dependent child, and the court shall not consider any documents or written materials presented at the case conference but not incorporated into the case conference agreement, unless the documents or written materials were prepared for purposes other than or as a result of the case conference and are otherwise admissible under the rules of evidence.

(2) At any other stage in a dependency proceeding, the department or supervising agency, upon the parent's request, shall convene a case conference.

Sec. 24. RCW 13.34.094 and 2004 c 147 s 3 are each amended to read as follows:

The department, or supervising agency after the shelter care hearing, shall, within existing resources, provide to parents requesting or participating in a multidisciplinary team, family group conference, case conference, or prognostic staffing information that describes these processes prior to the processes being undertaken.

Sec. 25. RCW 13.34.096 and 2007 c 409 s 1 are each amended to read as follows:

The department (~~(of social and health services or other)~~) or supervising agency shall provide the child's foster parents, preadoptive parents, or other caregivers with notice of their right to be heard prior to each proceeding held with respect to the child in juvenile court under this chapter. The rights to notice and to be heard apply only to persons with whom a child has been placed by the department before shelter care or (~~other~~) supervising agency and who are providing care to the child at the time of the proceeding. This section shall not be construed to grant party status to any person solely on the basis of such notice and right to be heard.

Sec. 26. RCW 13.34.125 and 1999 c 173 s 2 are each amended to read as follows:

In those cases where an alleged father, birth parent, or parent has indicated his or her intention to make a voluntary adoption plan for the child and has agreed to the termination of his or her parental rights, the department or supervising agency shall follow the wishes of the alleged father, birth parent, or parent regarding the proposed adoptive placement of the child, if the court determines that the adoption is in the best interest of the child, and the prospective adoptive parents chosen by the alleged father, birth parent, or parent are properly qualified to adopt in compliance with the standards in this chapter and chapter 26.33 RCW. If the department or supervising agency has filed a termination petition, an alleged father's, birth parent's, or parent's preferences regarding the proposed adoptive placement of the child shall be given consideration.

Sec. 27. RCW 13.34.130 and 2007 c 413 s 6 and 2007 c 412 s 2 are each reenacted and amended to read as follows:

If, after a fact-finding hearing pursuant to RCW 13.34.110, it has been proven by a preponderance of the evidence that the child is dependent within the meaning of RCW 13.34.030 after consideration of the social study prepared pursuant to RCW 13.34.110 and after a disposition hearing has been held pursuant to RCW 13.34.110, the court shall enter an order of disposition pursuant to this section.

(1) The court shall order one of the following dispositions of the case:

(a) Order a disposition other than removal of the child from his or her home, which shall provide a program designed to alleviate the immediate danger to the child, to mitigate or cure any damage the child has already suffered, and to aid the parents so that the child will not be endangered in the future. In determining the disposition, the court should choose those services, including housing assistance, that least interfere with family autonomy and are adequate to protect the child.

(b) Order the child to be removed from his or her home and into the custody, control, and care of a relative (~~(or)~~)₂ the department, or a (~~(licensed child placing)~~) supervising agency for supervision of the child's placement. The department or

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supervising agency (~~supervising the child's placement~~) has the authority to place the child, subject to review and approval by the court (i) with a relative as defined in RCW 74.15.020(2)(a), (ii) in a foster family home or group care facility licensed pursuant to chapter 74.15 RCW, or (iii) in the home of another suitable person if the child or family has a preexisting relationship with that person, and the person has completed all required criminal history background checks and otherwise appears to the department or supervising agency to be suitable and competent to provide care for the child. Absent good cause, the department or supervising agency shall follow the wishes of the natural parent regarding the placement of the child in accordance with RCW 13.34.260. The department or supervising agency may only place a child with a person not related to the child as defined in RCW 74.15.020(2)(a) when the court finds that such placement is in the best interest of the child. Unless there is reasonable cause to believe that the health, safety, or welfare of the child would be jeopardized or that efforts to reunite the parent and child will be hindered, such child shall be placed with a person who is: (A) Related to the child as defined in RCW 74.15.020(2)(a) with whom the child has a relationship and is comfortable; and (B) willing and available to care for the child.

(2) Placement of the child with a relative under this subsection shall be given preference by the court. An order for out-of-home placement may be made only if the court finds that reasonable efforts have been made to prevent or eliminate the need for removal of the child from the child's home and to make it possible for the child to return home, specifying the services that have been provided to the child and the child's parent, guardian, or legal custodian, and that preventive services have been offered or provided and have failed to prevent the need for out-of-home placement, unless the health, safety, and welfare of the child cannot be protected adequately in the home, and that:

(a) There is no parent or guardian available to care for such child;

(b) The parent, guardian, or legal custodian is not willing to take custody of the child; or

(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger.

(3) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court shall consider whether it is in a child's best interest to be placed with, have contact with, or have visits with siblings.

(a) There shall be a presumption that such placement, contact, or visits are in the best interests of the child provided that:

(i) The court has jurisdiction over all siblings subject to the order of placement, contact, or visitation pursuant to petitions filed under this chapter or the parents of a child for whom there is no jurisdiction are willing to agree; and

(ii) There is no reasonable cause to believe that the health, safety, or welfare of any child subject to the order of placement, contact, or visitation would be jeopardized or that efforts to reunite the parent and child would be hindered by such placement, contact, or visitation. In no event shall parental visitation time be reduced in order to provide sibling visitation.

(b) The court may also order placement, contact, or visitation of a child with a step-brother or step-sister provided that in addition to the factors in (a) of this subsection, the child has a relationship and is comfortable with the step-sibling.

(4) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section and placed into nonparental or nonrelative care, the court shall order a placement that allows the child to remain in the same school he or she attended prior to the initiation of the dependency proceeding when such a placement is practical and in the child's best interest.

(5) If the court has ordered a child removed from his or her home pursuant to subsection (1)(b) of this section, the court may order that a petition seeking termination of the parent and child relationship be filed if the requirements of RCW 13.34.132 are met.

(6) If there is insufficient information at the time of the disposition hearing upon which to base a determination regarding the suitability of a proposed placement with a relative, the child shall remain in foster care and the court shall direct the department or supervising agency to conduct necessary background investigations as provided in chapter 74.15 RCW and report the results of such investigation to the court within thirty days. However, if such relative appears otherwise suitable and competent to provide care and treatment, the criminal history background check need not be completed before placement, but as soon as possible after placement. Any placements with relatives, pursuant to this section, shall be contingent upon cooperation by the relative with the agency case plan and compliance with court orders related to the care and supervision of the child including, but not limited to, court orders regarding parent-child contacts, sibling contacts, and any other conditions imposed by the court. Noncompliance with the case plan or court order shall be grounds for removal of the child from the relative's home, subject to review by the court.

Sec. 28. RCW 13.34.136 and 2008 c 267 s 3 and 2008 c 152 s 2 are each reenacted and amended to read as follows:

(1) Whenever a child is ordered removed from the home, a permanency plan shall be developed no later than sixty days from the time the supervising agency assumes responsibility for providing services, including placing the child, or at the time of a hearing under RCW 13.34.130, whichever occurs first. The permanency planning process continues until a permanency planning goal is achieved or dependency is dismissed. The planning process shall include reasonable efforts to return the child to the parent's home.

(2) The agency supervising the dependency shall submit a written permanency plan to all parties and the court not less than fourteen days prior to the scheduled hearing. Responsive reports of parties not in agreement with the department's or supervising agency's proposed permanency plan must be provided to the department or supervising agency, all other parties, and the court at least seven days prior to the hearing.

The permanency plan shall include:

(a) A permanency plan of care that shall identify one of the following outcomes as a primary goal and may identify additional outcomes as alternative goals: Return of the child to the home of the child's parent, guardian, or legal custodian; adoption; guardianship; permanent legal custody; long-term relative or foster care, until the child is age eighteen, with a written agreement between the parties and the care provider; successful completion of a responsible living skills program; or independent living, if appropriate and if the child is age sixteen or older. The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW;

(b) Unless the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to return the child home, what steps the supervising agency or the department will take to promote existing appropriate sibling relationships and/or facilitate placement together or contact in accordance with the best interests of each child, and what actions the department or supervising agency will take to maintain parent-child ties. All aspects of the plan shall include the goal of achieving permanence for the child.

(i) The department's or supervising agency's plan shall specify what services the parents will be offered to enable them to resume custody, what requirements the parents must meet to resume custody, and a time limit for each service plan and parental requirement.

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(ii) Visitation is the right of the family, including the child and the parent, in cases in which visitation is in the best interest of the child. Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships and making it possible for parents and children to safely reunify. The supervising agency or department shall encourage the maximum parent and child and sibling contact possible, when it is in the best interest of the child, including regular visitation and participation by the parents in the care of the child while the child is in placement. Visitation shall not be limited as a sanction for a parent's failure to comply with court orders or services where the health, safety, or welfare of the child is not at risk as a result of the visitation. Visitation may be limited or denied only if the court determines that such limitation or denial is necessary to protect the child's health, safety, or welfare. The court and the department or supervising agency should rely upon community resources, relatives, foster parents, and other appropriate persons to provide transportation and supervision for visitation to the extent that such resources are available, and appropriate, and the child's safety would not be compromised.

(iii) A child shall be placed as close to the child's home as possible, preferably in the child's own neighborhood, unless the court finds that placement at a greater distance is necessary to promote the child's or parents' well-being.

(iv) The plan shall state whether both in-state and, where appropriate, out-of-state placement options have been considered by the department or supervising agency.

(v) Unless it is not in the best interests of the child, whenever practical, the plan should ensure the child remains enrolled in the school the child was attending at the time the child entered foster care.

(vi) The supervising agency (~~charged with supervising a child in placement~~) or department shall provide all reasonable services that are available within the department or supervising agency, or within the community, or those services which the department has existing contracts to purchase. It shall report to the court if it is unable to provide such services; and

(c) If the court has ordered, pursuant to RCW 13.34.130(5), that a termination petition be filed, a specific plan as to where the child will be placed, what steps will be taken to achieve permanency for the child, services to be offered or provided to the child, and, if visitation would be in the best interests of the child, a recommendation to the court regarding visitation between parent and child pending a fact-finding hearing on the termination petition. The department or supervising agency shall not be required to develop a plan of services for the parents or provide services to the parents if the court orders a termination petition be filed. However, reasonable efforts to ensure visitation and contact between siblings shall be made unless there is reasonable cause to believe the best interests of the child or siblings would be jeopardized.

(3) Permanency planning goals should be achieved at the earliest possible date. If the child has been in out-of-home care for fifteen of the most recent twenty-two months, the court shall require the department or supervising agency to file a petition seeking termination of parental rights in accordance with RCW 13.34.145(3)(b)(vi). In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(4) If the court determines that the continuation of reasonable efforts to prevent or eliminate the need to remove the child from his or her home or to safely return the child home should not be part of the permanency plan of care for the child, reasonable efforts shall be made to place the child in a timely manner and to complete whatever steps are necessary to finalize the permanent placement of the child.

(5) The identified outcomes and goals of the permanency plan may change over time based upon the circumstances of the particular case.

(6) The court shall consider the child's relationships with the child's siblings in accordance with RCW 13.34.130(3).

(7) For purposes related to permanency planning:

(a) "Guardianship" means a dependency guardianship or a legal guardianship pursuant to chapter 11.88 RCW or equivalent laws of another state or a federally recognized Indian tribe.

(b) "Permanent custody order" means a custody order entered pursuant to chapter 26.10 RCW.

(c) "Permanent legal custody" means legal custody pursuant to chapter 26.10 RCW or equivalent laws of another state or a federally recognized Indian tribe.

Sec. 29. RCW 13.34.138 and 2007 c 413 s 8 and 2007 c 410 s 1 are each reenacted and amended to read as follows:

(1) Except for children whose cases are reviewed by a citizen review board under chapter 13.70 RCW, the status of all children found to be dependent shall be reviewed by the court at least every six months from the beginning date of the placement episode or the date dependency is established, whichever is first. The purpose of the hearing shall be to review the progress of the parties and determine whether court supervision should continue.

(a) The initial review hearing shall be an in-court review and shall be set six months from the beginning date of the placement episode or no more than ninety days from the entry of the disposition order, whichever comes first. The requirements for the initial review hearing, including the in-court review requirement, shall be accomplished within existing resources.

(b) The initial review hearing may be a permanency planning hearing when necessary to meet the time frames set forth in RCW 13.34.145 (1)(a) or 13.34.134.

(2)(a) A child shall not be returned home at the review hearing unless the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists. The parents, guardian, or legal custodian shall report to the court the efforts they have made to correct the conditions which led to removal. If a child is returned, casework supervision by the supervising agency or department shall continue for a period of six months, at which time there shall be a hearing on the need for continued intervention.

(b) Prior to the child returning home, the department or supervising agency must complete the following:

(i) Identify all adults residing in the home and conduct background checks on those persons;

(ii) Identify any persons who may act as a caregiver for the child in addition to the parent with whom the child is being placed and determine whether such persons are in need of any services in order to ensure the safety of the child, regardless of whether such persons are a party to the dependency. The department or supervising agency may recommend to the court and the court may order that placement of the child in the parent's home be contingent on or delayed based on the need for such persons to engage in or complete services to ensure the safety of the child prior to placement. If services are recommended for the caregiver, and the caregiver fails to engage in or follow through with the recommended services, the department or supervising agency must promptly notify the court; and

(iii) Notify the parent with whom the child is being placed that he or she has an ongoing duty to notify the department or supervising agency of all persons who reside in the home or who may act as a caregiver for the child both prior to the placement of the child in the home and subsequent to the placement of the child in the home as long as the court retains jurisdiction of the dependency proceeding or the department is providing or monitoring either remedial services to the parent or services to ensure the safety of the child to any caregivers.

Caregivers may be required to engage in services under this subsection solely for the purpose of ensuring the present and future safety of a child who is a ward of the court. This subsection does not grant party status to any individual not already a party to the dependency proceeding, create an

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entitlement to services or a duty on the part of the department or supervising agency to provide services, or create judicial authority to order the provision of services to any person other than for the express purposes of this section or RCW 13.34.025 or if the services are unavailable or unsuitable or the person is not eligible for such services.

(c) If the child is not returned home, the court shall establish in writing:

(i) Whether the supervising agency or the department is making reasonable efforts to provide services to the family and eliminate the need for placement of the child. If additional services, including housing assistance, are needed to facilitate the return of the child to the child's parents, the court shall order that reasonable services be offered specifying such services;

(ii) Whether there has been compliance with the case plan by the child, the child's parents, and the agency supervising the placement;

(iii) Whether progress has been made toward correcting the problems that necessitated the child's placement in out-of-home care;

(iv) Whether the services set forth in the case plan and the responsibilities of the parties need to be clarified or modified due to the availability of additional information or changed circumstances;

(v) Whether there is a continuing need for placement;

(vi) Whether the child is in an appropriate placement which adequately meets all physical, emotional, and educational needs;

(vii) Whether preference has been given to placement with the child's relatives;

(viii) Whether both in-state and, where appropriate, out-of-state placements have been considered;

(ix) Whether the parents have visited the child and any reasons why visitation has not occurred or has been infrequent;

(x) Whether terms of visitation need to be modified;

(xi) Whether the court-approved long-term permanent plan for the child remains the best plan for the child;

(xii) Whether any additional court orders need to be made to move the case toward permanency; and

(xiii) The projected date by which the child will be returned home or other permanent plan of care will be implemented.

(d) The court at the review hearing may order that a petition seeking termination of the parent and child relationship be filed.

(3)(a) In any case in which the court orders that a dependent child may be returned to or remain in the child's home, the in-home placement shall be contingent upon the following:

(i) The compliance of the parents with court orders related to the care and supervision of the child, including compliance with ~~((am))~~ the supervising agency's case plan; and

(ii) The continued participation of the parents, if applicable, in available substance abuse or mental health treatment if substance abuse or mental illness was a contributing factor to the removal of the child.

(b) The following may be grounds for removal of the child from the home, subject to review by the court:

(i) Noncompliance by the parents with the department's or supervising agency's case plan or court order;

(ii) The parent's inability, unwillingness, or failure to participate in available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect; or

(iii) The failure of the parents to successfully and substantially complete available services or treatment for themselves or the child, including substance abuse treatment if a parent's substance abuse was a contributing factor to the abuse or neglect.

(c) In a pending dependency case in which the court orders that a dependent child may be returned home and that child is later removed from the home, the court shall hold a review hearing within thirty days from the date of removal to determine whether the permanency plan should be changed, a termination

petition should be filed, or other action is warranted. The best interests of the child shall be the court's primary consideration in the review hearing.

(4) The court's ability to order housing assistance under RCW 13.34.130 and this section is: (a) Limited to cases in which homelessness or the lack of adequate and safe housing is the primary reason for an out-of-home placement; and (b) subject to the availability of funds appropriated for this specific purpose.

(5) The court shall consider the child's relationship with siblings in accordance with RCW 13.34.130(3).

Sec. 30. RCW 13.34.145 and 2008 c 152 s 3 are each amended to read as follows:

(1) The purpose of a permanency planning hearing is to review the permanency plan for the child, inquire into the welfare of the child and progress of the case, and reach decisions regarding the permanent placement of the child.

(a) A permanency planning hearing shall be held in all cases where the child has remained in out-of-home care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered. The hearing shall take place no later than twelve months following commencement of the current placement episode.

(b) Whenever a child is removed from the home of a dependency guardian or long-term relative or foster care provider, and the child is not returned to the home of the parent, guardian, or legal custodian but is placed in out-of-home care, a permanency planning hearing shall take place no later than twelve months, as provided in this section, following the date of removal unless, prior to the hearing, the child returns to the home of the dependency guardian or long-term care provider, the child is placed in the home of the parent, guardian, or legal custodian, an adoption decree, guardianship order, or a permanent custody order is entered, or the dependency is dismissed.

(c) Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months. In cases where parental rights have been terminated, the child is legally free for adoption, and adoption has been identified as the primary permanency planning goal, it shall be a goal to complete the adoption within six months following entry of the termination order.

(2) No later than ten working days prior to the permanency planning hearing, the agency having custody of the child shall submit a written permanency plan to the court and shall mail a copy of the plan to all parties and their legal counsel, if any.

(3) At the permanency planning hearing, the court shall conduct the following inquiry:

(a) If a goal of long-term foster or relative care has been achieved prior to the permanency planning hearing, the court shall review the child's status to determine whether the placement and the plan for the child's care remain appropriate.

(b) In cases where the primary permanency planning goal has not been achieved, the court shall inquire regarding the reasons why the primary goal has not been achieved and determine what needs to be done to make it possible to achieve the primary goal. The court shall review the permanency plan prepared by the agency and make explicit findings regarding each of the following:

(i) The continuing necessity for, and the safety and appropriateness of, the placement;

(ii) The extent of compliance with the permanency plan by the department or supervising agency and any other service providers, the child's parents, the child, and the child's guardian, if any;

(iii) The extent of any efforts to involve appropriate service providers in addition to department or supervising agency staff in planning to meet the special needs of the child and the child's parents;

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(iv) The progress toward eliminating the causes for the child's placement outside of his or her home and toward returning the child safely to his or her home or obtaining a permanent placement for the child;

(v) The date by which it is likely that the child will be returned to his or her home or placed for adoption, with a guardian or in some other alternative permanent placement; and

(vi) If the child has been placed outside of his or her home for fifteen of the most recent twenty-two months, not including any period during which the child was a runaway from the out-of-home placement or the first six months of any period during which the child was returned to his or her home for a trial home visit, the appropriateness of the permanency plan, whether reasonable efforts were made by the department or supervising agency to achieve the goal of the permanency plan, and the circumstances which prevent the child from any of the following:

(A) Being returned safely to his or her home;

(B) Having a petition for the involuntary termination of parental rights filed on behalf of the child;

(C) Being placed for adoption;

(D) Being placed with a guardian;

(E) Being placed in the home of a fit and willing relative of the child; or

(F) Being placed in some other alternative permanent placement, including independent living or long-term foster care.

At this hearing, the court shall order the department or supervising agency to file a petition seeking termination of parental rights if the child has been in out-of-home care for fifteen of the last twenty-two months since the date the dependency petition was filed unless the court makes a good cause exception as to why the filing of a termination of parental rights petition is not appropriate. Any good cause finding shall be reviewed at all subsequent hearings pertaining to the child. For purposes of this section, "good cause exception" includes but is not limited to the following: The child is being cared for by a relative; the department has not provided to the child's family such services as the court and the department have deemed necessary for the child's safe return home; or the department has documented in the case plan a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests.

(c)(i) If the permanency plan identifies independent living as a goal, the court shall make a finding that the provision of services to assist the child in making a transition from foster care to independent living will allow the child to manage his or her financial, personal, social, educational, and nonfinancial affairs prior to approving independent living as a permanency plan of care.

(ii) The permanency plan shall also specifically identify the services that will be provided to assist the child to make a successful transition from foster care to independent living.

(iii) The department or supervising agency shall not discharge a child to an independent living situation before the child is eighteen years of age unless the child becomes emancipated pursuant to chapter 13.64 RCW.

(d) If the child has resided in the home of a foster parent or relative for more than six months prior to the permanency planning hearing, the court shall also enter a finding regarding whether the foster parent or relative was informed of the hearing as required in RCW 74.13.280, 13.34.215(5), and 13.34.096.

(4) In all cases, at the permanency planning hearing, the court shall:

(a)(i) Order the permanency plan prepared by the supervising agency to be implemented; or

(ii) Modify the permanency plan, and order implementation of the modified plan; and

(b)(i) Order the child returned home only if the court finds that a reason for removal as set forth in RCW 13.34.130 no longer exists; or

(ii) Order the child to remain in out-of-home care for a limited specified time period while efforts are made to implement the permanency plan.

(5) Following the first permanency planning hearing, the court shall hold a further permanency planning hearing in accordance with this section at least once every twelve months until a permanency planning goal is achieved or the dependency is dismissed, whichever occurs first.

(6) Prior to the second permanency planning hearing, the agency that has custody of the child shall consider whether to file a petition for termination of parental rights.

(7) If the court orders the child returned home, casework supervision by the department or supervising agency shall continue for at least six months, at which time a review hearing shall be held pursuant to RCW 13.34.138, and the court shall determine the need for continued intervention.

(8) The juvenile court may hear a petition for permanent legal custody when: (a) The court has ordered implementation of a permanency plan that includes permanent legal custody; and (b) the party pursuing the permanent legal custody is the party identified in the permanency plan as the prospective legal custodian. During the pendency of such proceeding, the court shall conduct review hearings and further permanency planning hearings as provided in this chapter. At the conclusion of the legal guardianship or permanent legal custody proceeding, a juvenile court hearing shall be held for the purpose of determining whether dependency should be dismissed. If a guardianship or permanent custody order has been entered, the dependency shall be dismissed.

(9) Continued juvenile court jurisdiction under this chapter shall not be a barrier to the entry of an order establishing a legal guardianship or permanent legal custody when the requirements of subsection (8) of this section are met.

(10) Nothing in this chapter may be construed to limit the ability of the agency that has custody of the child to file a petition for termination of parental rights or a guardianship petition at any time following the establishment of dependency. Upon the filing of such a petition, a fact-finding hearing shall be scheduled and held in accordance with this chapter unless the department or supervising agency requests dismissal of the petition prior to the hearing or unless the parties enter an agreed order terminating parental rights, establishing guardianship, or otherwise resolving the matter.

(11) The approval of a permanency plan that does not contemplate return of the child to the parent does not relieve the supervising agency of its obligation to provide reasonable services, under this chapter, intended to effectuate the return of the child to the parent, including but not limited to, visitation rights. The court shall consider the child's relationships with siblings in accordance with RCW 13.34.130.

(12) Nothing in this chapter may be construed to limit the procedural due process rights of any party in a termination or guardianship proceeding filed under this chapter.

Sec. 31. RCW 13.34.155 and 2000 c 135 s 1 are each amended to read as follows:

(1) The court hearing the dependency petition may hear and determine issues related to chapter 26.10 RCW in a dependency proceeding as necessary to facilitate a permanency plan for the child or children as part of the dependency disposition order or a dependency review order or as otherwise necessary to implement a permanency plan of care for a child. The parents, guardians, or legal custodian of the child must agree, subject to court approval, to establish a permanent custody order. This agreed order may have the concurrence of the other parties to the dependency including the supervising agency, the guardian ad litem of the child, and the child if age twelve or older, and must also be in the best interests of the child. If the petitioner for a custody order under chapter 26.10 RCW is not a party to the dependency proceeding, he or she must agree on the record or by the filing of a declaration to the entry of a custody order. Once an order is entered under chapter 26.10 RCW, and the

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dependency petition dismissed, the department or supervising agency shall not continue to supervise the placement.

(2) Any court order determining issues under chapter 26.10 RCW is subject to modification upon the same showing and standards as a court order determining Title 26 RCW issues.

(3) Any order entered in the dependency court establishing or modifying a permanent legal custody order under chapter 26.10 RCW shall also be filed in the chapter 26.10 RCW action by the prevailing party. Once filed, any order establishing or modifying permanent legal custody shall survive dismissal of the dependency proceeding.

Sec. 32. RCW 13.34.174 and 2000 c 122 s 23 are each amended to read as follows:

(1) The provisions of this section shall apply when a court orders a party to undergo an alcohol or substance abuse diagnostic investigation and evaluation.

(2) The facility conducting the investigation and evaluation shall make a written report to the court stating its findings and recommendations including family-based services or treatment when appropriate. If its findings and recommendations support treatment, it shall also recommend a treatment plan setting out:

- (a) Type of treatment;
- (b) Nature of treatment;
- (c) Length of treatment;
- (d) A treatment time schedule; and
- (e) Approximate cost of the treatment.

The affected person shall be included in developing the appropriate treatment plan. The treatment plan must be signed by the treatment provider and the affected person. The initial written progress report based on the treatment plan shall be sent to the appropriate persons six weeks after initiation of treatment. Subsequent progress reports shall be provided after three months, six months, twelve months, and thereafter every six months if treatment exceeds twelve months. Reports are to be filed with the court in a timely manner. Close-out of the treatment record must include summary of pretreatment and posttreatment, with final outcome and disposition. The report shall also include recommendations for ongoing stability and decrease in destructive behavior.

Each report shall also be filed with the court and a copy given to the person evaluated and the person's counsel. A copy of the treatment plan shall also be given to the department's or supervising agency's caseworker and to the guardian ad litem. Any program for chemical dependency shall meet the program requirements contained in chapter 70.96A RCW.

(3) If the court has ordered treatment pursuant to a dependency proceeding it shall also require the treatment program to provide, in the reports required by subsection (2) of this section, status reports to the court, the department, the supervising (~~(child-placing)~~) agency (~~(if any)~~), and the person or person's counsel regarding the person's cooperation with the treatment plan proposed and the person's progress in treatment.

(4) If a person subject to this section fails or neglects to carry out and fulfill any term or condition of the treatment plan, the program or agency administering the treatment shall report such breach to the court, the department, the guardian ad litem, the supervising (~~(child-placing)~~) agency if any, and the person or person's counsel, within twenty-four hours, together with its recommendation. These reports shall be made as a declaration by the person who is personally responsible for providing the treatment.

(5) Nothing in this chapter may be construed as allowing the court to require the department to pay for the cost of any alcohol or substance abuse evaluation or treatment program.

Sec. 33. RCW 13.34.176 and 2000 c 122 s 24 are each amended to read as follows:

(1) The court, upon receiving a report under RCW 13.34.174(4) or at the department's or supervising agency's request, may schedule a show cause hearing to determine whether the person is in violation of the treatment conditions. All parties shall be given notice of the hearing. The court shall

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hold the hearing within ten days of the request for a hearing. At the hearing, testimony, declarations, reports, or other relevant information may be presented on the person's alleged failure to comply with the treatment plan and the person shall have the right to present similar information on his or her own behalf.

(2) If the court finds that there has been a violation of the treatment conditions it shall modify the dependency order, as necessary, to ensure the safety of the child. The modified order shall remain in effect until the party is in full compliance with the treatment requirements.

Sec. 34. RCW 13.34.180 and 2001 c 332 s 4 are each amended to read as follows:

(1) A petition seeking termination of a parent and child relationship may be filed in juvenile court by any party, including the supervising agency, to the dependency proceedings concerning that child. Such petition shall conform to the requirements of RCW 13.34.040, shall be served upon the parties as provided in RCW 13.34.070(8), and shall allege all of the following unless subsection (2) or (3) of this section applies:

- (a) That the child has been found to be a dependent child;
- (b) That the court has entered a dispositional order pursuant to RCW 13.34.130;
- (c) That the child has been removed or will, at the time of the hearing, have been removed from the custody of the parent for a period of at least six months pursuant to a finding of dependency;

(d) That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided;

(e) That there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. A parent's failure to substantially improve parental deficiencies within twelve months following entry of the dispositional order shall give rise to a rebuttable presumption that there is little likelihood that conditions will be remedied so that the child can be returned to the parent in the near future. The presumption shall not arise unless the petitioner makes a showing that all necessary services reasonably capable of correcting the parental deficiencies within the foreseeable future have been clearly offered or provided. In determining whether the conditions will be remedied the court may consider, but is not limited to, the following factors:

(i) Use of intoxicating or controlled substances so as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documented multiple failed treatment attempts; or

(ii) Psychological incapacity or mental deficiency of the parent that is so severe and chronic as to render the parent incapable of providing proper care for the child for extended periods of time or for periods of time that present a risk of imminent harm to the child, and documented unwillingness of the parent to receive and complete treatment or documentation that there is no treatment that can render the parent capable of providing proper care for the child in the near future; and

(f) That continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home.

(2) In lieu of the allegations in subsection (1) of this section, the petition may allege that the child was found under such circumstances that the whereabouts of the child's parent are unknown and no person has acknowledged paternity or maternity and requested custody of the child within two months after the child was found.

(3) In lieu of the allegations in subsection (1)(b) through (f) of this section, the petition may allege that the parent has been convicted of:

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(a) Murder in the first degree, murder in the second degree, or homicide by abuse as defined in chapter 9A.32 RCW against another child of the parent;

(b) Manslaughter in the first degree or manslaughter in the second degree, as defined in chapter 9A.32 RCW against another child of the parent;

(c) Attempting, conspiring, or soliciting another to commit one or more of the crimes listed in (a) or (b) of this subsection; or

(d) Assault in the first or second degree, as defined in chapter 9A.36 RCW, against the surviving child or another child of the parent.

(4) Notice of rights shall be served upon the parent, guardian, or legal custodian with the petition and shall be in substantially the following form:

"NOTICE

A petition for termination of parental rights has been filed against you. You have important legal rights and you must take steps to protect your interests. This petition could result in permanent loss of your parental rights.

1. You have the right to a fact-finding hearing before a judge.

2. You have the right to have a lawyer represent you at the hearing. A lawyer can look at the files in your case, talk to the ~~((department of social and health services))~~ supervising agency and other agencies, tell you about the law, help you understand your rights, and help you at hearings. If you cannot afford a lawyer, the court will appoint one to represent you. To get a court-appointed lawyer you must contact: (explain local procedure).

3. At the hearing, you have the right to speak on your own behalf, to introduce evidence, to examine witnesses, and to receive a decision based solely on the evidence presented to the judge.

You should be present at this hearing.

You may call (insert agency) for more information about your child. The agency's name and telephone number are (insert name and telephone number)."

Sec. 35. RCW 13.34.210 and 2003 c 227 s 8 are each amended to read as follows:

If, upon entering an order terminating the parental rights of a parent, there remains no parent having parental rights, the court shall commit the child to the custody of the department or ~~((to))~~ a ~~((licensed child-placing))~~ supervising agency willing to accept custody for the purpose of placing the child for adoption. If an adoptive home has not been identified, the department or supervising agency shall place the child in a licensed foster home, or take other suitable measures for the care and welfare of the child. The custodian shall have authority to consent to the adoption of the child consistent with chapter 26.33 RCW, the marriage of the child, the enlistment of the child in the armed forces of the United States, necessary surgical and other medical treatment for the child, and to consent to such other matters as might normally be required of the parent of the child.

If a child has not been adopted within six months after the date of the order and a guardianship of the child under RCW 13.34.231 or chapter 11.88 RCW, or a permanent custody order under chapter 26.10 RCW, has not been entered by the court, the court shall review the case every six months until a decree of adoption is entered except for those cases which are reviewed by a citizen review board under chapter 13.70 RCW. The supervising agency shall take reasonable steps to ensure that the child maintains relationships with siblings as provided in RCW 13.34.130(3) and shall report to the court the status and extent of such relationships.

Sec. 36. RCW 13.34.215 and 2008 c 267 s 1 are each amended to read as follows:

(1) A child may petition the juvenile court to reinstate the previously terminated parental rights of his or her parent under the following circumstances:

(a) The child was previously found to be a dependent child under this chapter;

(b) The child's parent's rights were terminated in a proceeding under this chapter;

(c) The child has not achieved his or her permanency plan within three years of a final order of termination; and

(d) The child must be at least twelve years old at the time the petition is filed. Upon the child's motion for good cause shown, or on its own motion, the court may hear a petition filed by a child younger than twelve years old.

(2) A child seeking to petition under this section shall be provided counsel at no cost to the child.

(3) The petition must be signed by the child in the absence of a showing of good cause as to why the child could not do so.

(4) If, after a threshold hearing to consider the parent's apparent fitness and interest in reinstatement of parental rights, the court finds by a preponderance of the evidence that the best interests of the child may be served by reinstatement of parental rights, the juvenile court shall order that a hearing on the merits of the petition be held.

(5) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department or the supervising agency, the child's attorney, and the child. The court shall also order the department or supervising agency to give prior notice of any hearing to the child's former parent whose parental rights are the subject of the petition, any parent whose rights have not been terminated, the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(6) The juvenile court shall conditionally grant the petition if it finds by clear and convincing evidence that the child has not achieved his or her permanency plan and is not likely to imminently achieve his or her permanency plan and that reinstatement of parental rights is in the child's best interest. In determining whether reinstatement is in the child's best interest the court shall consider, but is not limited to, the following:

(a) Whether the parent whose rights are to be reinstated is a fit parent and has remedied his or her deficits as provided in the record of the prior termination proceedings and prior termination order;

(b) The age and maturity of the child, and the ability of the child to express his or her preference;

(c) Whether the reinstatement of parental rights will present a risk to the child's health, welfare, or safety; and

(d) Other material changes in circumstances, if any, that may have occurred which warrant the granting of the petition.

(7) In determining whether the child has or has not achieved his or her permanency plan or whether the child is likely to achieve his or her permanency plan, the department or supervising agency shall provide the court, and the court shall review, information related to any efforts to achieve the permanency plan including efforts to achieve adoption or a permanent guardianship.

(8)(a) If the court conditionally grants the petition under subsection (6) of this section, the case will be continued for six months and a temporary order of reinstatement entered. During this period, the child shall be placed in the custody of the parent. The department or supervising agency shall develop a permanency plan for the child reflecting the plan to be reunification and shall provide transition services to the family as appropriate.

(b) If the child must be removed from the parent due to abuse or neglect allegations prior to the expiration of the conditional six-month period, the court shall dismiss the petition for reinstatement of parental rights if the court finds the allegations have been proven by a preponderance of the evidence.

(c) If the child has been successfully placed with the parent for six months, the court order reinstating parental rights remains in effect and the court shall dismiss the dependency.

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(9) After the child has been placed with the parent for six months, the court shall hold a hearing. If the placement with the parent has been successful, the court shall enter a final order of reinstatement of parental rights, which shall restore all rights, powers, privileges, immunities, duties, and obligations of the parent as to the child, including those relating to custody, control, and support of the child. The court shall dismiss the dependency and direct the clerk's office to provide a certified copy of the final order of reinstatement of parental rights to the parent at no cost.

(10) The granting of the petition under this section does not vacate or otherwise affect the validity of the original termination order.

(11) Any parent whose rights are reinstated under this section shall not be liable for any child support owed to the department pursuant to RCW 13.34.160 or Title 26 RCW or costs of other services provided to a child for the time period from the date of termination of parental rights to the date parental rights are reinstated.

(12) A proceeding to reinstate parental rights is a separate action from the termination of parental rights proceeding and does not vacate the original termination of parental rights. An order granted under this section reinstates the parental rights to the child. This reinstatement is a recognition that the situation of the parent and child have changed since the time of the termination of parental rights and reunification is now appropriate.

(13) This section is retroactive and applies to any child who is under the jurisdiction of the juvenile court at the time of the hearing regardless of the date parental rights were terminated.

(14) The state, the department, the supervising agency, and its employees are not liable for civil damages resulting from any act or omission in the provision of services under this section, unless the act or omission constitutes gross negligence. This section does not create any duty and shall not be construed to create a duty where none exists. This section does not create a cause of action against the state, the department, the supervising agency, or its employees concerning the original termination.

Sec. 37. RCW 13.34.230 and 1981 c 195 s 1 are each amended to read as follows:

Any party to a dependency proceeding, including the supervising agency, may file a petition in juvenile court requesting that guardianship be created as to a dependent child. The department (~~(of social and health services)~~) or supervising agency shall receive notice of any guardianship proceedings and have the right to intervene in the proceedings.

Sec. 38. RCW 13.34.233 and 2000 c 122 s 30 are each amended to read as follows:

(1) Any party may request the court under RCW 13.34.150 to modify or terminate a dependency guardianship order. Notice of any motion to modify or terminate the guardianship shall be served on all other parties, including any agency that was responsible for supervising the child's placement at the time the guardianship petition was filed. Notice in all cases shall be served upon the department. If the department or supervising agency was not previously a party to the guardianship proceeding, the department or supervising agency shall nevertheless have the right to: (a) Initiate a proceeding to modify or terminate a guardianship; and (b) intervene at any stage of such a proceeding.

(2) The guardianship may be modified or terminated upon the motion of any party (~~(or)~~), the department, or the supervising agency if the court finds by a preponderance of the evidence that there has been a substantial change of circumstances subsequent to the establishment of the guardianship and that it is in the child's best interest to modify or terminate the guardianship. The court shall hold a hearing on the motion before modifying or terminating a guardianship.

(3) Upon entry of an order terminating the guardianship, the dependency guardian shall not have any rights or responsibilities with respect to the child and shall not have legal standing to

participate as a party in further dependency proceedings pertaining to the child. The court may allow the child's dependency guardian to attend dependency review proceedings pertaining to the child for the sole purpose of providing information about the child to the court.

(4) Upon entry of an order terminating the guardianship, the child shall remain dependent and the court shall either return the child to the child's parent or order the child into the custody, control, and care of the department or a (~~(licensed child-placing)~~) supervising agency for placement in a foster home or group care facility licensed pursuant to chapter 74.15 RCW or in a home not required to be licensed pursuant to such chapter. The court shall not place a child in the custody of the child's parent unless the court finds that reasons for removal as set forth in RCW 13.34.130 no longer exist and that such placement is in the child's best interest. The court shall thereafter conduct reviews as provided in RCW 13.34.138 and, where applicable, shall hold a permanency planning hearing in accordance with RCW 13.34.145.

Sec. 39. RCW 13.34.245 and 1997 c 386 s 18 are each amended to read as follows:

(1) Where any parent or Indian custodian voluntarily consents to foster care placement of an Indian child and a petition for dependency has not been filed regarding the child, such consent shall not be valid unless executed in writing before the court and filed with the court. The consent shall be accompanied by the written certification of the court that the terms and consequences of the consent were fully explained in detail to the parent or Indian custodian during the court proceeding and were fully understood by the parent or Indian custodian. The court shall also certify in writing either that the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, the birth of the Indian child shall not be valid.

(2) To obtain court validation of a voluntary consent to foster care placement, any person may file a petition for validation alleging that there is located or residing within the county an Indian child whose parent or Indian custodian wishes to voluntarily consent to foster care placement of the child and requesting that the court validate the consent as provided in this section. The petition shall contain the name, date of birth, and residence of the child, the names and residences of the consenting parent or Indian custodian, and the name and location of the Indian tribe in which the child is a member or eligible for membership. The petition shall state whether the placement preferences of 25 U.S.C. Sec. 1915 (b) or (c) will be followed. Reasonable attempts shall be made by the petitioner to ascertain and set forth in the petition the identity, location, and custodial status of any parent or Indian custodian who has not consented to foster care placement and why that parent or Indian custodian cannot assume custody of the child.

(3) Upon filing of the petition for validation, the clerk of the court shall schedule the petition for a hearing on the court validation of the voluntary consent no later than forty-eight hours after the petition has been filed, excluding Saturdays, Sundays, and holidays. Notification of time, date, location, and purpose of the validation hearing shall be provided as soon as possible to the consenting parent or Indian custodian, the department or (~~(other child-placing)~~) supervising agency which is to assume responsibility for the child's placement and care pursuant to the consent to foster care placement, and the Indian tribe in which the child is enrolled or eligible for enrollment as a member. If the identity and location of any nonconsenting parent or Indian custodian is known, reasonable attempts shall be made to notify the parent or Indian custodian of the consent to placement and the validation hearing. Notification under this subsection may be given by the most expedient means, including, but not limited to, mail, personal service, telephone, and telegraph.

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(4) Any parent or Indian custodian may withdraw consent to a voluntary foster care placement, made under this section, at any time. Unless the Indian child has been taken in custody pursuant to RCW 13.34.050 or 26.44.050, placed in shelter care pursuant to RCW 13.34.060, or placed in foster care pursuant to RCW 13.34.130, the Indian child shall be returned to the parent or Indian custodian upon withdrawal of consent to foster care placement of the child.

(5) Upon termination of the voluntary foster care placement and return of the child to the parent or Indian custodian, the department or ~~((other child-placing))~~ supervising agency which had assumed responsibility for the child's placement and care pursuant to the consent to foster care placement shall file with the court written notification of the child's return and shall also send such notification to the Indian tribe in which the child is enrolled or eligible for enrollment as a member and to any other party to the validation proceeding including any noncustodial parent.

Sec. 40. RCW 13.34.320 and 1999 c 188 s 2 are each amended to read as follows:

The department or supervising agency shall obtain the prior consent of a child's parent, legal guardian, or legal custodian before a dependent child is admitted into an inpatient mental health treatment facility. If the child's parent, legal guardian, or legal custodian is unavailable or does not agree with the proposed admission, the department or supervising agency shall request a hearing and provide notice to all interested parties to seek prior approval of the juvenile court before such admission. In the event that an emergent situation creating a risk of substantial harm to the health and welfare of a child in the custody of the department or supervising agency does not allow time for the department or supervising agency to obtain prior approval or to request a court hearing before consenting to the admission of the child into an inpatient mental health hospital, the department or supervising agency shall seek court approval by requesting that a hearing be set on the first available court date.

Sec. 41. RCW 13.34.330 and 1999 c 188 s 3 are each amended to read as follows:

A dependent child who is admitted to an inpatient mental health facility shall be placed in a facility, with available treatment space, that is closest to the family home, unless the department or supervising agency, in consultation with the admitting authority finds that admission in the facility closest to the child's home would jeopardize the health or safety of the child.

Sec. 42. RCW 13.34.340 and 2000 c 122 s 35 are each amended to read as follows:

For minors who cannot consent to the release of their records with the department or supervising agency because they are not old enough to consent to treatment, or, if old enough, lack the capacity to consent, or if the minor is receiving treatment involuntarily with a provider the department or supervising agency has authorized to provide mental health treatment under RCW 13.34.320, the department or supervising agency shall disclose, upon the treating physician's request, all relevant records, including the minor's passport as established under RCW 74.13.285, in the department's or supervising agency's possession that the treating physician determines contain information required for treatment of the minor. The treating physician shall maintain all records received from the department or supervising agency in a manner that distinguishes the records from any other records in the minor's file with the treating physician and the department or supervising agency records may not be disclosed by the treating physician to any other person or entity absent a court order except that, for medical purposes only, a treating physician may disclose the department or supervising agency records to another treating physician.

Sec. 43. RCW 13.34.350 and 2001 c 52 s 2 are each amended to read as follows:

In order to facilitate communication of information needed to serve the best interest of any child who is the subject of a dependency case filed under this chapter, the department ~~((of social and health services))~~ shall, consistent with state and federal law governing the release of confidential information, establish guidelines, and shall use those guidelines for the facilitation of communication of relevant information among divisions, providers, the courts, the family, caregivers, caseworkers, and others.

Sec. 44. RCW 13.34.370 and 2004 c 146 s 2 are each amended to read as follows:

The court may order expert evaluations of parties to obtain information regarding visitation issues or other issues in a case. These evaluations shall be performed by appointed evaluators who are mutually agreed upon by the court, the ~~((state))~~ supervising agency, the department, and the parents' counsel, and, if the child is to be evaluated, by the representative for the child. If no agreement can be reached, the court shall select the expert evaluator.

Sec. 45. RCW 13.34.380 and 2004 c 146 s 3 are each amended to read as follows:

The department ~~((of social and health services))~~ shall develop consistent policies and protocols, based on current relevant research, concerning visitation for dependent children to be implemented consistently throughout the state. The department shall develop the policies and protocols in consultation with researchers in the field, community-based agencies, court-appointed special advocates, parents' representatives, and court representatives. The policies and protocols shall include, but not be limited to: The structure and quality of visitations; and training for department and supervising agency caseworkers, visitation supervisors, and foster parents related to visitation.

The policies and protocols shall be consistent with the provisions of this chapter and implementation of the policies and protocols shall be consistent with relevant orders of the court.

Sec. 46. RCW 13.34.385 and 2008 c 259 s 1 are each amended to read as follows:

(1) A relative of a dependent child may petition the juvenile court for reasonable visitation with the child if:

(a) The child has been found to be a dependent child under this chapter;

(b) The parental rights of both of the child's parents have been terminated;

(c) The child is in the custody of the department ~~((or)),~~ another public ~~((or private))~~ agency, or a supervising agency; and

(d) The child has not been adopted and is not in a preadoptive home or other permanent placement at the time the petition for visitation is filed.

(2) The court shall give prior notice for any proceeding under this section, or cause prior notice to be given, to the department ~~((or)),~~ other public ~~((or private))~~ agency, or supervising agency having custody of the child, the child's attorney or guardian ad litem if applicable, and the child. The court shall also order the custodial agency to give prior notice of any hearing to the child's current foster parent, relative caregiver, guardian or custodian, and the child's tribe, if applicable.

(3) The juvenile court may grant the petition for visitation if it finds that the requirements of subsection (1) of this section have been met, and that unsupervised visitation between the child and the relative does not present a risk to the child's safety or well-being and that the visitation is in the best interests of the child. In determining the best interests of the child the court shall consider, but is not limited to, the following:

(a) The love, affection, and strength of the relationship between the child and the relative;

(b) The length and quality of the prior relationship between the child and the relative;

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(c) Any criminal convictions for or founded history of abuse or neglect of a child by the relative;

(d) Whether the visitation will present a risk to the child's health, welfare, or safety;

(e) The child's reasonable preference, if the court considers the child to be of sufficient age to express a preference;

(f) Any other factor relevant to the child's best interest.

(4) The visitation order may be modified at any time upon a showing that the visitation poses a risk to the child's safety or well-being. The visitation order shall state that visitation will automatically terminate upon the child's placement in a preadoptive home, if the child is adopted, or if there is a subsequent founded abuse or neglect allegation against the relative.

(5) The granting of the petition under this section does not grant the relative the right to participate in the dependency action and does not grant any rights to the relative not otherwise specified in the visitation order.

(6) This section is retroactive and applies to any eligible dependent child at the time of the filing of the petition for visitation, regardless of the date parental rights were terminated.

(7) For the purpose of this section, "relative" means a relative as defined in RCW 74.15.020(2)(a), except parents.

(8) This section is intended to provide an additional procedure by which a relative may request visitation with a dependent child. It is not intended to impair or alter the ability a court currently has to order visitation with a relative under the dependency statutes.

Sec. 47. RCW 13.34.390 and 2005 c 504 s 303 are each amended to read as follows:

The department (~~of social and health services~~) and the department of health shall develop and expand comprehensive services for drug-affected and alcohol-affected mothers and infants. Subject to funds appropriated for this purpose, the expansion shall be in evidence-based, research-based, or consensus-based practices, (~~as those terms are defined in section 603 of this act~~) and shall expand capacity in underserved regions of the state.

Sec. 48. RCW 13.34.400 and 2007 c 411 s 2 are each amended to read as follows:

In any proceeding under this chapter, if the department or supervising agency submits a report to the court in which the department is recommending a new placement or a change in placement, the department or supervising agency shall include the documents relevant to persons in the home in which a child will be placed and listed in subsections (1) through (5) of this section to the report. The department or supervising agency shall include only these relevant documents and shall not attach the entire history of the subject of the report.

(1) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to substance abuse treatment, mental health treatment, anger management classes, or domestic violence classes, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report or evaluation submitted by the provider, but may not include the entire history with the provider.

(2) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to visitation with a child, the department or supervising agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the most recent visitation report, a visitation report referencing a specific incident alleged in the report, or summary of the visitation prepared by the person who supervised the visitation. The documentation attached to the report shall not include the entire visitation history.

(3) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to the psychological status of a person, the department or supervising

agency shall attach the document upon which the recommendation, opinion, or assertion was based. The documentation may include the progress report, evaluation, or summary submitted by the provider, but shall not include the entire history of the person.

(4) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to injuries to a child, the department or supervising agency shall attach a summary of the physician's report, prepared by the physician or the physician's designee, relating to the recommendation, opinion, or assertion by the department.

(5) If the report contains a recommendation, opinion, or assertion by the department or supervising agency relating to a home study, licensing action, or background check information, the department or supervising agency shall attach the document or documents upon which that recommendation, opinion, or assertion is based.

Sec. 49. RCW 74.13.010 and 1965 c 30 s 2 are each amended to read as follows:

The purpose of this chapter is to safeguard, protect, and contribute to the welfare of the children of the state, through a comprehensive and coordinated program of ((public)) child welfare services provided by both the department and supervising agencies providing for: Social services and facilities for children who require guidance, care, control, protection, treatment, or rehabilitation; setting of standards for social services and facilities for children; cooperation with public and voluntary agencies, organizations, and citizen groups in the development and coordination of programs and activities in behalf of children; and promotion of community conditions and resources that help parents to discharge their responsibilities for the care, development, and well-being of their children.

NEW SECTION. Sec. 50. A new section is added to chapter 74.13 RCW to read as follows:

The department's duty to provide services to homeless families with children is set forth in RCW 43.20A.790 and in appropriations provided by the legislature for implementation of the comprehensive plan for homeless families with children.

Sec. 51. RCW 74.13.031 and 2008 c 267 s 6 are each amended to read as follows:

~~((The department shall have the duty to provide child welfare services and shall:))~~

(1) The department and supervising agencies shall develop, administer, supervise, and monitor a coordinated and comprehensive plan that establishes, aids, and strengthens services for the protection and care of runaway, dependent, or neglected children.

(2) Within available resources, the department and supervising agencies shall recruit an adequate number of prospective adoptive and foster homes, both regular and specialized, i.e. homes for children of ethnic minority, including Indian homes for Indian children, sibling groups, handicapped and emotionally disturbed, teens, pregnant and parenting teens, and the department shall annually report to the governor and the legislature concerning the department's and supervising agency's success in: (a) Meeting the need for adoptive and foster home placements; (b) reducing the foster parent turnover rate; (c) completing home studies for legally free children; and (d) implementing and operating the passport program required by RCW 74.13.285. The report shall include a section entitled "Foster Home Turn-Over, Causes and Recommendations."

(3) The department shall investigate complaints of any recent act or failure to act on the part of a parent or caretaker that results in death, serious physical or emotional harm, or sexual abuse or exploitation, or that presents an imminent risk of serious harm, and on the basis of the findings of such investigation, offer child welfare services in relation to the problem to such parents, legal custodians, or persons serving in loco parentis, and/or bring the situation to the attention of an appropriate court, or another community agency. An

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investigation is not required of nonaccidental injuries which are clearly not the result of a lack of care or supervision by the child's parents, legal custodians, or persons serving in loco parentis. If the investigation reveals that a crime against a child may have been committed, the department shall notify the appropriate law enforcement agency.

(4) The department or supervising agencies shall offer, on a voluntary basis, family reconciliation services to families who are in conflict.

(5) The department or supervising agencies shall monitor placements of children in out-of-home care and in-home dependencies to assure the safety, well-being, and quality of care being provided is within the scope of the intent of the legislature as defined in RCW 74.13.010 and 74.15.010. ~~((The policy for monitoring placements))~~ Under this section ~~((shall require that))~~ children in out-of-home care and in-home dependencies and their caregivers shall receive a private and individual face-to-face visit each month.

~~((a))~~ The department or supervising agencies shall conduct the monthly visits with children and caregivers ~~((required under this section unless the child's placement is being supervised under a contract between the department and a private agency accredited by a national child welfare accrediting entity, in which case the private agency shall, within existing resources, conduct the monthly visits with the child and with the child's caregiver according to the standards described in this subsection and shall provide the department with a written report of the visits within fifteen days of completing the visits.~~

~~((b))~~ n cases where the monthly visits required under this subsection are being conducted by a private agency, the department shall conduct a face-to-face health and safety visit with the child at least once every ninety days) to whom it is providing child welfare services.

(6) The department and supervising agencies shall have authority to accept custody of children from parents and to accept custody of children from juvenile courts, where authorized to do so under law, to provide child welfare services including placement for adoption, to provide for the routine and necessary medical, dental, and mental health care, or necessary emergency care of the children, and to provide for the physical care of such children and make payment of maintenance costs if needed. Except where required by Public Law 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives children for adoption from the department shall discriminate on the basis of race, creed, or color when considering applications in their placement for adoption.

(7) The department and supervising agency shall have authority to provide temporary shelter to children who have run away from home and who are admitted to crisis residential centers.

(8) The department and supervising agency shall have authority to purchase care for children ~~((; and shall follow in general the policy of using properly approved private agency services for the actual care and supervision of such children insofar as they are available, paying for care of such children as are accepted by the department as eligible for support at reasonable rates established by the department))~~.

(9) The department shall establish a children's services advisory committee with sufficient members representing supervising agencies which shall assist the secretary in the development of a partnership plan for utilizing resources of the public and private sectors, and advise on all matters pertaining to child welfare, licensing of child care agencies, adoption, and services related thereto. At least one member shall represent the adoption community.

(10)(a) The department and supervising agencies shall have authority to provide continued foster care or group care as needed to participate in or complete a high school or vocational school program.

(b)(i) Beginning in 2006, the department has the authority to allow up to fifty youth reaching age eighteen to continue in

foster care or group care as needed to participate in or complete a posthigh school academic or vocational program, and to receive necessary support and transition services.

(ii) In 2007 and 2008, the department has the authority to allow up to fifty additional youth per year reaching age eighteen to remain in foster care or group care as provided in (b)(i) of this subsection.

(iii) A youth who remains eligible for such placement and services pursuant to department rules may continue in foster care or group care until the youth reaches his or her twenty-first birthday. Eligibility requirements shall include active enrollment in a posthigh school academic or vocational program and maintenance of a 2.0 grade point average.

(11) The department shall refer cases to the division of child support whenever state or federal funds are expended for the care and maintenance of a child, including a child with a developmental disability who is placed as a result of an action under chapter 13.34 RCW, unless the department finds that there is good cause not to pursue collection of child support against the parent or parents of the child. Cases involving individuals age eighteen through twenty shall not be referred to the division of child support unless required by federal law.

(12) The department and supervising agencies shall have authority within funds appropriated for foster care services to purchase care for Indian children who are in the custody of a federally recognized Indian tribe or tribally licensed child-placing agency pursuant to parental consent, tribal court order, or state juvenile court order; and the purchase of such care shall be subject to the same eligibility standards and rates of support applicable to other children for whom the department purchases care.

Notwithstanding any other provision of RCW 13.32A.170 through 13.32A.200 and 74.13.032 through 74.13.036, or of this section all services to be provided by the department ~~((of social and health services))~~ under subsections (4), (6), and (7) of this section, subject to the limitations of these subsections, may be provided by any program offering such services funded pursuant to Titles II and III of the federal juvenile justice and delinquency prevention act of 1974.

(13) Within amounts appropriated for this specific purpose, the supervising agency or department shall provide preventive services to families with children that prevent or shorten the duration of an out-of-home placement.

(14) The department and supervising agencies shall have authority to provide independent living services to youths, including individuals who have attained eighteen years of age, and have not attained twenty-one years of age who are or have been in foster care.

(15) The department and supervising agencies shall consult at least quarterly with foster parents, including members of the foster parent association of Washington state, for the purpose of receiving information and comment regarding how the department ~~((ts))~~ and supervising agencies are performing the duties and meeting the obligations specified in this section and RCW 74.13.250 and 74.13.320 regarding the recruitment of foster homes, reducing foster parent turnover rates, providing effective training for foster parents, and administering a coordinated and comprehensive plan that strengthens services for the protection of children. Consultation shall occur at the regional and statewide levels.

Sec. 52. RCW 74.13.0311 and 2002 c 219 s 13 are each amended to read as follows:

The department or ~~((its contractors))~~ supervising agencies may provide child welfare services pursuant to a deferred prosecution plan ordered under chapter 10.05 RCW. Child welfare services provided under this chapter pursuant to a deferred prosecution order may not be construed to prohibit the department or supervising agencies from providing services or undertaking proceedings pursuant to chapter 13.34 or 26.44 RCW.

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Sec. 53. RCW 74.13.032 and 1998 c 296 s 4 are each amended to read as follows:

(1) The department shall establish, ~~((by))~~ through performance-based contracts with private or public vendors, regional crisis residential centers with semi-secure facilities. These facilities shall be structured group care facilities licensed under rules adopted by the department and shall have an average of at least four adult staff members and in no event less than three adult staff members to every eight children.

(2) Within available funds appropriated for this purpose, the department shall establish, ~~((by))~~ through performance-based contracts with private or public vendors, regional crisis residential centers with secure facilities. These facilities shall be facilities licensed under rules adopted by the department. These centers may also include semi-secure facilities and to such extent shall be subject to subsection (1) of this section.

(3) The department shall, in addition to the facilities established under subsections (1) and (2) of this section, establish additional crisis residential centers pursuant to performance-based contracts with licensed private group care facilities.

(4) The staff at the facilities established under this section shall be trained so that they may effectively counsel juveniles admitted to the centers, provide treatment, supervision, and structure to the juveniles that recognize the need for support and the varying circumstances that cause children to leave their families, and carry out the responsibilities stated in RCW 13.32A.090. The responsibilities stated in RCW 13.32A.090 may, in any of the centers, be carried out by the department.

(5) The secure facilities located within crisis residential centers shall be operated to conform with the definition in RCW 13.32A.030. The facilities shall have an average of no less than one adult staff member to every ten children. The staffing ratio shall continue to ensure the safety of the children.

(6) If a secure crisis residential center is located in or adjacent to a secure juvenile detention facility, the center shall be operated in a manner that prevents in-person contact between the residents of the center and the persons held in such facility.

Sec. 54. RCW 74.13.036 and 2003 c 207 s 2 are each amended to read as follows:

(1) The department ~~((of social and health services))~~ shall oversee implementation of chapter 13.34 RCW and chapter 13.32A RCW. The oversight shall be comprised of working with affected parts of the criminal justice and child care systems as well as with local government, legislative, and executive authorities to effectively carry out these chapters. The department shall work with all such entities to ensure that chapters 13.32A and 13.34 RCW are implemented in a uniform manner throughout the state.

(2) The department shall develop a plan and procedures, in cooperation with the statewide advisory committee, to insure the full implementation of the provisions of chapter 13.32A RCW. Such plan and procedures shall include but are not limited to:

(a) Procedures defining and delineating the role of the department and juvenile court with regard to the execution of the child in need of services placement process;

(b) Procedures for designating department or supervising agency staff responsible for family reconciliation services;

(c) Procedures assuring enforcement of contempt proceedings in accordance with RCW 13.32A.170 and 13.32A.250; and

(d) Procedures for the continued education of all individuals in the criminal juvenile justice and child care systems who are affected by chapter 13.32A RCW, as well as members of the legislative and executive branches of government.

There shall be uniform application of the procedures developed by the department and juvenile court personnel, to the extent practicable. Local and regional differences shall be taken into consideration in the development of procedures required under this subsection.

(3) In addition to its other oversight duties, the department shall:

(a) Identify and evaluate resource needs in each region of the state;

(b) Disseminate information collected as part of the oversight process to affected groups and the general public;

(c) Educate affected entities within the juvenile justice and child care systems, local government, and the legislative branch regarding the implementation of chapters 13.32A and 13.34 RCW;

(d) Review complaints concerning the services, policies, and procedures of those entities charged with implementing chapters 13.32A and 13.34 RCW; and

(e) Report any violations and misunderstandings regarding the implementation of chapters 13.32A and 13.34 RCW.

(4) The department shall provide an annual report to the legislature not later than December 1 of each year only when it has declined to accept custody of a child from a law enforcement agency or it has received a report of a child being released without placement. The report shall indicate the number of times it has declined to accept custody of a child from a law enforcement agency under chapter 13.32A RCW and the number of times it has received a report of a child being released without placement under RCW 13.32A.060(1)(c). The report shall include the dates, places, and reasons the department declined to accept custody and the dates and places children are released without placement.

Sec. 55. RCW 74.13.037 and 1997 c 146 s 9 are each amended to read as follows:

Within available funds appropriated for this purpose, the department shall establish, ~~((by))~~ through performance-based contracts with private vendors, transitional living programs for youth who are being assisted by the department in being emancipated as part of their permanency plan under chapter 13.34 RCW. These programs shall be licensed under rules adopted by the department.

Sec. 56. RCW 74.13.042 and 1995 c 311 s 14 are each amended to read as follows:

If the department or supervising agency is denied lawful access to records or information, or requested records or information is not provided in a timely manner, the department or supervising agency may petition the court for an order compelling disclosure.

(1) The petition shall be filed in the juvenile court for the county in which the record or information is located or the county in which the person who is the subject of the record or information resides. If the person who is the subject of the record or information is a party to or the subject of a pending proceeding under chapter 13.32A or 13.34 RCW, the petition shall be filed in such proceeding.

(2) Except as otherwise provided in this section, the persons from whom and about whom the record or information is sought shall be served with a summons and a petition at least seven calendar days prior to a hearing on the petition. The court may order disclosure upon ex parte application of the department or supervising agency, without prior notice to any person, if the court finds there is reason to believe access to the record or information is necessary to determine whether the child is in imminent danger and in need of immediate protection.

(3) The court shall grant the petition upon a showing that there is reason to believe that the record or information sought is necessary for the health, safety, or welfare of the child who is currently receiving child welfare services.

Sec. 57. RCW 74.13.045 and 1998 c 245 s 146 are each amended to read as follows:

The department shall develop and implement an informal, nonadversarial complaint resolution process to be used by clients of the department or supervising agency, foster parents, and other affected individuals who have complaints regarding a department policy or procedure, ~~((or))~~ the application of such a policy or procedure, or the performance of an entity that has

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entered into a performance-based contract with the department, related to programs administered under this chapter. The process shall not apply in circumstances where the complainant has the right under Title 13, 26, or 74 RCW to seek resolution of the complaint through judicial review or through an adjudicative proceeding.

Nothing in this section shall be construed to create substantive or procedural rights in any person. Participation in the complaint resolution process shall not entitle any person to an adjudicative proceeding under chapter 34.05 RCW or to superior court review. Participation in the process shall not affect the right of any person to seek other statutorily or constitutionally permitted remedies.

The department shall develop procedures to assure that clients and foster parents are informed of the availability of the complaint resolution process and how to access it. The department shall incorporate information regarding the complaint resolution process into the training for foster parents and department and supervising agency caseworkers.

The department shall compile complaint resolution data including the nature of the complaint and the outcome of the process.

Sec. 58. RCW 74.13.055 and 1998 c 245 s 147 are each amended to read as follows:

The department shall adopt rules pursuant to chapter 34.05 RCW which establish goals as to the maximum number of children who will remain in foster care for a period of longer than twenty-four months. The department shall also work cooperatively with ~~((the major private child care providers))~~ supervising agencies to assure that a partnership plan for utilizing the resources of the public and private sector in all matters pertaining to child welfare is developed and implemented.

Sec. 59. RCW 74.13.060 and 1971 ex.s. c 169 s 7 are each amended to read as follows:

(1) The secretary or his or her designees or delegates shall be the custodian without compensation of such moneys and other funds of any person which may come into the possession of the secretary during the period such person is placed with the department ~~((of social and health services))~~ or an entity with which it has entered into a performance-based contract pursuant to chapter 74.13 RCW. As such custodian, the secretary shall have authority to disburse moneys from the person's funds for the following purposes only and subject to the following limitations:

~~((1) The secretary may disburse any of the funds belonging to such person))~~ (a) For such personal needs of such person as the secretary may deem proper and necessary.

~~((2) The secretary may apply such funds))~~ (b) Against the amount of public assistance otherwise payable to such person. This includes applying, as reimbursement, any benefits, payments, funds, or accrual paid to or on behalf of said person from any source against the amount of public assistance expended on behalf of said person during the period for which the benefits, payments, funds or accruals were paid.

~~((3))~~ (2) All funds held by the secretary as custodian may be deposited in a single fund, the receipts and expenditures therefrom to be accurately accounted for by him or her on an individual basis. Whenever, the funds belonging to any one person exceed the sum of five hundred dollars, the secretary may deposit said funds in a savings and loan association account on behalf of that particular person.

~~((4))~~ (3) When the conditions of placement no longer exist and public assistance is no longer being provided for such person, upon a showing of legal competency and proper authority, the secretary shall deliver to such person, or the parent, person, or agency legally responsible for such person, all funds belonging to the person remaining in his or her possession as custodian, together with a full and final accounting of all receipts and expenditures made therefrom.

~~((5))~~ (4) The appointment of a guardian for the estate of such person shall terminate the secretary's authority as custodian of said funds upon receipt by the secretary of a certified copy of letters of guardianship. Upon the guardian's request, the secretary shall immediately forward to such guardian any funds of such person remaining in the secretary's possession together with full and final accounting of all receipts and expenditures made therefrom.

Sec. 60. RCW 74.13.065 and 2002 c 52 s 8 are each amended to read as follows:

(1) The department ~~((or))~~ supervising agency ~~((responsible for supervising a child in out-of-home care;))~~ shall conduct a social study whenever a child is placed in out-of-home care under the supervision of the department or ~~((other))~~ supervising agency. The study shall be conducted prior to placement, or, if it is not feasible to conduct the study prior to placement due to the circumstances of the case, the study shall be conducted as soon as possible following placement.

(2) The social study shall include, but not be limited to, an assessment of the following factors:

(a) The physical and emotional strengths and needs of the child;

(b) Emotional bonds with siblings and the need to maintain regular sibling contacts;

(c) The proximity of the child's placement to the child's family to aid reunification;

(d) The possibility of placement with the child's relatives or extended family;

(e) The racial, ethnic, cultural, and religious background of the child;

(f) The least-restrictive, most family-like placement reasonably available and capable of meeting the child's needs; and

(g) Compliance with RCW 13.34.260 regarding parental preferences for placement of their children.

Sec. 61. RCW 74.13.075 and 1994 c 169 s 1 are each amended to read as follows:

(1) For the purposes of funds appropriated for the treatment of sexually aggressive youth, the term "sexually aggressive youth" means those juveniles who:

(a) Have been abused and have committed a sexually aggressive act or other violent act that is sexual in nature; and

(i) Are in the care and custody of the state or a federally recognized Indian tribe located within the state; or

(ii) Are the subject of a proceeding under chapter 13.34 RCW or a child welfare proceeding held before a tribal court located within the state; or

(b) Cannot be detained under the juvenile justice system due to being under age twelve and incompetent to stand trial for acts that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if the juvenile was over twelve years of age, or competent to stand trial if under twelve years of age.

(2) In expending these funds, the department ~~((of social and health services))~~ shall establish in each region a case review committee to review all cases for which the funds are used. In determining whether to use these funds in a particular case, the committee shall consider:

(a) The age of the juvenile;

(b) The extent and type of abuse to which the juvenile has been subjected;

(c) The juvenile's past conduct;

(d) The benefits that can be expected from the treatment;

(e) The cost of the treatment; and

(f) The ability of the juvenile's parent or guardian to pay for the treatment.

(3) The department may provide funds, under this section, for youth in the care and custody of a tribe or through a tribal court, for the treatment of sexually aggressive youth only if: (a) The tribe uses the same or equivalent definitions and standards for determining which youth are sexually aggressive; and (b) the

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department seeks to recover any federal funds available for the treatment of youth.

Sec. 62. RCW 74.13.077 and 1993 c 402 s 4 are each amended to read as follows:

The secretary (~~of the department of social and health services~~) is authorized to transfer surplus, unused treatment funds from the civil commitment center operated under chapter 71.09 RCW to the division of children and family services to provide treatment services for sexually aggressive youth.

Sec. 63. RCW 74.13.096 and 2007 c 465 s 2 are each amended to read as follows:

(1) The secretary (~~of the department of social and health services~~) shall convene an advisory committee to analyze and make recommendations on the disproportionate representation of children of color in Washington's child welfare system. The department shall collaborate with the Washington institute for public policy and private sector entities to develop a methodology for the advisory committee to follow in conducting a baseline analysis of data from the child welfare system to determine whether racial disproportionality and racial disparity exist in this system. The Washington institute for public policy shall serve as technical staff for the advisory committee. In determining whether racial disproportionality or racial disparity exists, the committee shall utilize existing research and evaluations conducted within Washington state, nationally, and in other states and localities that have similarly analyzed the prevalence of racial disproportionality and disparity in child welfare.

(2) At a minimum, the advisory committee shall examine and analyze: (a) The level of involvement of children of color at each stage in the state's child welfare system, including the points of entry and exit, and each point at which a treatment decision is made; (b) the number of children of color in low-income or single-parent families involved in the state's child welfare system; (c) the family structures of families involved in the state's child welfare system; and (d) the outcomes for children in the existing child welfare system. This analysis shall be disaggregated by racial and ethnic group, and by geographic region.

(3) The committee of not more than fifteen individuals shall consist of experts in social work, law, child welfare, psychology, or related fields, at least two tribal representatives, a representative of the governor's juvenile justice advisory committee, a representative of a community-based organization involved with child welfare issues, a representative of the department (~~of social and health services~~), a current or former foster care youth, a current or former foster care parent, and a parent previously involved with Washington's child welfare system. Committee members shall be selected as follows: (a) Five members selected by the senate majority leader; (b) five members selected by the speaker of the house of representatives; and (c) five members selected by the secretary of the department (~~of social and health services~~). The secretary, the senate majority leader, and the speaker of the house of representatives shall coordinate appointments to ensure the representation specified in this subsection is achieved. After the advisory committee appointments are finalized, the committee shall select two individuals to serve as cochairs of the committee, one of whom shall be a representative from a nongovernmental entity.

(4) The secretary shall make reasonable efforts to seek public and private funding for the advisory committee.

(5) Not later than June 1, 2008, the advisory committee created in subsection (1) of this section shall report to the secretary of the department (~~of social and health services~~) on the results of the analysis. If the results of the analysis indicate disproportionality or disparity exists for any racial or ethnic group in any region of the state, the committee, in conjunction with the secretary of the department (~~of social and health services~~), shall develop a plan for remedying the disproportionality or disparity. The remediation plan shall include: (a) Recommendations for administrative and legislative

actions related to appropriate programs and services to reduce and eliminate disparities in the system and improve the long-term outcomes for children of color who are served by the system; and (b) performance measures for implementing the remediation plan. To the extent possible and appropriate, the remediation plan shall be developed to integrate the recommendations required in this subsection with the department's existing compliance plans, training efforts, and other practice improvement and reform initiatives in progress. The advisory committee shall be responsible for ongoing evaluation of current and prospective policies and procedures for their contribution to or effect on racial disproportionality and disparity.

(6) Not later than December 1, 2008, the secretary shall report the results of the analysis conducted under subsection (2) of this section and shall describe the remediation plan required under subsection (5) of this section to the appropriate committees of the legislature with jurisdiction over policy and fiscal matters relating to children, families, and human services. Beginning January 1, 2010, the secretary shall report annually to the appropriate committees of the legislature on the implementation of the remediation plan, including any measurable progress made in reducing and eliminating racial disproportionality and disparity in the state's child welfare system.

Sec. 64. RCW 74.13.103 and 1971 ex.s. c 63 s 2 are each amended to read as follows:

When a child proposed for adoption is placed with a prospective adoptive parent the department may charge such parent a fee in payment or part payment of such adoptive parent's part of the cost of the adoption services rendered and to be rendered by the department.

In charging such fees the department shall treat a husband and wife as a single prospective adoptive parent.

Each such fee shall be fixed according to a sliding scale based on the ability to pay of the prospective adoptive parent or parents.

Such fee scale shall be annually fixed by the secretary after considering the recommendations of the committee designated by the secretary to advise him or her on child welfare and pursuant to the regulations to be issued by the secretary in accordance with the provisions of Title 34 RCW.

The secretary may waive, defer, or provide for payment in installments without interest of, any such fee whenever in his or her judgment payment or immediate payment would cause economic hardship to such adoptive parent or parents.

Nothing in this section shall require the payment of a fee to the state of Washington in a case in which an adoption results from independent placement or placement by a licensed child-placing or supervising agency.

Sec. 65. RCW 74.13.106 and 1985 c 7 s 134 are each amended to read as follows:

All fees paid for adoption services pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) shall be credited to the general fund. Expenses incurred in connection with supporting the adoption of hard to place children shall be paid by warrants drawn against such appropriations as may be available. The secretary may for such purposes, contract with any public agency or (~~licensed child placing~~) supervising agency and/or adoptive parent and is authorized to accept funds from other sources including federal, private, and other public funding sources to carry out such purposes.

The secretary shall actively seek, where consistent with the policies and programs of the department, and shall make maximum use of, such federal funds as are or may be made available to the department for the purpose of supporting the adoption of hard to place children. The secretary may, if permitted by federal law, deposit federal funds for adoption support, aid to adoptions, or subsidized adoption in the general fund and may use such funds, subject to such limitations as may

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be imposed by federal or state law, to carry out the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Sec. 66. RCW 74.13.109 and 1990 c 285 s 7 are each amended to read as follows:

The secretary shall issue rules and regulations to assist in the administration of the program of adoption support authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act).

Disbursements from the appropriations available from the general fund shall be made pursuant to such rules and regulations and pursuant to agreements conforming thereto to be made by the secretary with parents for the purpose of supporting the adoption of children in, or likely to be placed in, foster homes or child caring institutions who are found by the secretary to be difficult to place in adoption because of physical or other reasons; including, but not limited to, physical or mental handicap, emotional disturbance, ethnic background, language, race, color, age, or sibling grouping.

Such agreements shall meet the following criteria:

(1) The child whose adoption is to be supported pursuant to such agreement shall be or have been a child hard to place in adoption.

(2) Such agreement must relate to a child who was or is residing in a foster home or child-caring institution or a child who, in the judgment of the secretary, is both eligible for, and likely to be placed in, either a foster home or a child-caring institution.

(3) Such agreement shall provide that adoption support shall not continue beyond the time that the adopted child reaches eighteen years of age, becomes emancipated, dies, or otherwise ceases to need support(~~(, provided that)~~). If the secretary (~~shall~~) finds that continuing dependency of such child after such child reaches eighteen years of age warrants the continuation of support pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) the secretary may do so, subject to all the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), including annual review of the amount of such support.

(4) Any prospective parent who is to be a party to such agreement shall be a person who has the character, judgment, sense of responsibility, and disposition which make him or her suitable as an adoptive parent of such child.

Sec. 67. RCW 74.13.124 and 1985 c 7 s 140 are each amended to read as follows:

An agreement for adoption support made (~~(pursuant to RCW 26.32.115)~~) before January 1, 1985, or pursuant to RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), although subject to review and adjustment as provided for herein, shall, as to the standard used by the secretary in making such review or reviews and any such adjustment, constitute a contract within the meaning of section 10, Article I of the United States Constitution and section 23, Article I of the state Constitution. For that reason once such an agreement has been made any review of and adjustment under such agreement shall as to the standards used by the secretary, be made only subject to the provisions of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) and such rules and regulations relating thereto as they exist on the date of the initial determination in connection with such agreement or such more generous standard or parts of such standard as may hereafter be provided for by law or regulation. Once made such an agreement shall constitute a solemn undertaking by the state of Washington with such adoptive parent or parents. The termination of the effective period of RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or a decision by the state or federal government to discontinue or reduce general appropriations made available for the purposes to be served by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act), shall not affect the state's specific continuing obligations to support such adoptions, subject to

such annual review and adjustment for all such agreements as have theretofore been entered into by the state.

The purpose of this section is to assure any such parent that, upon his or her consenting to assume the burdens of adopting a hard to place child, the state will not in future so act by way of general reduction of appropriations for the program authorized by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) or ratable reductions, to impair the trust and confidence necessarily reposed by such parent in the state as a condition of such parent taking upon himself or herself the obligations of parenthood of a difficult to place child.

Should the secretary and any such adoptive parent differ as to whether any standard or part of a standard adopted by the secretary after the date of an initial agreement, which standard or part is used by the secretary in making any review and adjustment, is more generous than the standard in effect as of the date of the initial determination with respect to such agreement such adoptive parent may invoke his or her rights, including all rights of appeal under the fair hearing provisions, available to him or her under RCW 74.13.127 (as recodified by this act).

Sec. 68. RCW 74.13.136 and 1985 c 7 s 144 are each amended to read as follows:

Any (~~(child-caring)~~) supervising agency or person having a child in foster care or institutional care and wishing to recommend to the secretary support of the adoption of such child as provided for in RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act) may do so, and may include in its or his or her recommendation advice as to the appropriate level of support and any other information likely to assist the secretary in carrying out the functions vested in the secretary by RCW 26.33.320 and 74.13.100 through 74.13.145 (as recodified by this act). Such agency may, but is not required to, be retained by the secretary to make the required preplacement study of the prospective adoptive parent or parents.

Sec. 69. RCW 74.13.165 and 1997 c 272 s 4 are each amended to read as follows:

The secretary or the secretary's designee (~~(may)~~) shall purchase services from nonprofit agencies for the purpose of conducting home studies for legally free children who have been awaiting adoption finalization for more than (~~(ninety)~~) sixty days. The home studies selected to be done under this section shall be for the children who have been legally free and awaiting adoption finalization the longest period of time.

This section expires June 30, 2011.

Sec. 70. RCW 74.13.170 and 1991 c 326 s 2 are each amended to read as follows:

The department (~~(of social and health services)~~) may, through performance-based contracts with supervising agencies, implement a therapeutic family home program for up to fifteen youth in the custody of the department under chapter 13.34 RCW. The program shall strive to develop and maintain a mutually reinforcing relationship between the youth and the therapeutic staff associated with the program.

Sec. 71. RCW 74.13.250 and 1990 c 284 s 2 are each amended to read as follows:

(1) Preservice training is recognized as a valuable tool to reduce placement disruptions, the length of time children are in care, and foster parent turnover rates. Preservice training also assists potential foster parents in making their final decisions about foster parenting and assists social service agencies in obtaining information about whether to approve potential foster parents.

(2) Foster parent preservice training shall include information about the potential impact of placement on foster children; social service agency administrative processes; the requirements, responsibilities, expectations, and skills needed to be a foster parent; attachment, separation, and loss issues faced by birth parents, foster children, and foster parents; child management and discipline; birth family relationships; and helping children leave foster care. Preservice training shall assist

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applicants in making informed decisions about whether they want to be foster parents. Preservice training shall be designed to enable the agency to assess the ability, readiness, and appropriateness of families to be foster parents. As a decision tool, effective preservice training provides potential foster parents with enough information to make an appropriate decision, affords potential foster parents an opportunity to discuss their decision with others and consider its implications for their family, clarifies foster family expectations, presents a realistic picture of what foster parenting involves, and allows potential foster parents to consider and explore the different types of children they might serve.

(3) Foster parents shall complete preservice training (~~shall be completed prior to~~) before the issuance of a foster care license, except that the department may, on a case by case basis, issue a written waiver that allows the foster parent to complete the training after licensure, so long as the training is completed within ninety days following licensure.

Sec. 72. RCW 74.13.280 and 2007 c 409 s 6 and 2007 c 220 s 4 are each reenacted and amended to read as follows:

(1) Except as provided in RCW 70.24.105, whenever a child is placed in out-of-home care by the department or a (~~child-placing~~) supervising agency, the department or agency shall share information known to the department or agency about the child and the child's family with the care provider and shall consult with the care provider regarding the child's case plan. If the child is dependent pursuant to a proceeding under chapter 13.34 RCW, the department or supervising agency shall keep the care provider informed regarding the dates and location of dependency review and permanency planning hearings pertaining to the child.

(2) Information about the child and the child's family shall include information known to the department or agency as to whether the child is a sexually reactive child, has exhibited high-risk behaviors, or is physically assaultive or physically aggressive, as defined in this section.

(3) Information about the child shall also include information known to the department or agency that the child:

- (a) Has received a medical diagnosis of fetal alcohol syndrome or fetal alcohol effect;
- (b) Has been diagnosed by a qualified mental health professional as having a mental health disorder;
- (c) Has witnessed a death or substantial physical violence in the past or recent past; or
- (d) Was a victim of sexual or severe physical abuse in the recent past.

(4) Any person who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information except as authorized by law. Care providers shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

(5) Nothing in this section shall be construed to limit the authority of the department or (~~child-placing~~) supervising agencies to disclose client information or to maintain client confidentiality as provided by law.

(6) As used in this section:

- (a) "Sexually reactive child" means a child who exhibits sexual behavior problems including, but not limited to, sexual behaviors that are developmentally inappropriate for their age or are harmful to the child or others.
- (b) "High-risk behavior" means an observed or reported and documented history of one or more of the following:
 - (i) Suicide attempts or suicidal behavior or ideation;
 - (ii) Self-mutilation or similar self-destructive behavior;
 - (iii) Fire-setting or a developmentally inappropriate fascination with fire;
 - (iv) Animal torture;
 - (v) Property destruction; or
 - (vi) Substance or alcohol abuse.

(c) "Physically assaultive or physically aggressive" means a child who exhibits one or more of the following behaviors that are developmentally inappropriate and harmful to the child or to others:

- (i) Observed assaultive behavior;
- (ii) Reported and documented history of the child willfully assaulting or inflicting bodily harm; or
- (iii) Attempting to assault or inflict bodily harm on other children or adults under circumstances where the child has the apparent ability or capability to carry out the attempted assaults including threats to use a weapon.

Sec. 73. RCW 74.13.283 and 2008 c 267 s 7 are each amended to read as follows:

(1) For the purpose of assisting foster youth in obtaining a Washington state identicard, submission of the information and materials listed in this subsection from the department or supervising agency to the department of licensing is sufficient proof of identity and residency and shall serve as the necessary authorization for the youth to apply for and obtain a Washington state identicard:

- (a) A written signed statement prepared on department or supervising agency letterhead, verifying the following:
 - (i) The youth is a minor who resides in Washington;
 - (ii) Pursuant to a court order, the youth is dependent and the department or (~~other~~) supervising agency is the legal custodian of the youth under chapter 13.34 RCW or under the interstate compact on the placement of children;
 - (iii) The youth's full name and date of birth;
 - (iv) The youth's social security number, if available;
 - (v) A brief physical description of the youth;
 - (vi) The appropriate address to be listed on the youth's identicard; and
 - (vii) Contact information for the appropriate person (~~at~~) with the department or supervising agency.

(b) A photograph of the youth, which may be digitized and integrated into the statement.

(2) The department or supervising agency may provide the statement and the photograph via any of the following methods, whichever is most efficient or convenient:

- (a) Delivered via first-class mail or electronically to the headquarters office of the department of licensing; or
- (b) Hand-delivered to a local office of the department of licensing by a department or supervising agency case worker.

(3) A copy of the statement shall be provided to the youth who shall provide the copy to the department of licensing when making an in-person application for a Washington state identicard.

(4) To the extent other identifying information is readily available, the department or supervising agency shall include the additional information with the submission of information required under subsection (1) of this section.

Sec. 74. RCW 74.13.285 and 2007 c 409 s 7 are each amended to read as follows:

(1) Within available resources, the department or supervising agency shall prepare a passport containing all known and available information concerning the mental, physical, health, and educational status of the child for any child who has been in a foster home for ninety consecutive days or more. The passport shall contain education records obtained pursuant to RCW 28A.150.510. The passport shall be provided to a foster parent at any placement of a child covered by this section. The department or supervising agency shall update the passport during the regularly scheduled court reviews required under chapter 13.34 RCW.

New placements (~~after July 1, 1997;~~) shall have first priority in the preparation of passports. (~~Within available resources, the department may prepare passports for any child in a foster home on July 1, 1997, provided that no time spent in a foster home before July 1, 1997, shall be included in the computation of the ninety days.~~)

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(2) In addition to the requirements of subsection (1) of this section, the department or supervising agency shall, within available resources, notify a foster parent before placement of a child of any known health conditions that pose a serious threat to the child and any known behavioral history that presents a serious risk of harm to the child or others.

(3) The department shall hold harmless the provider including supervising agencies for any unauthorized disclosures caused by the department.

(4) Any foster parent who receives information about a child or a child's family pursuant to this section shall keep the information confidential and shall not further disclose or disseminate the information, except as authorized by law. Such individuals shall agree in writing to keep the information that they receive confidential and shall affirm that the information will not be further disclosed or disseminated, except as authorized by law.

Sec. 75. RCW 74.13.288 and 2004 c 40 s 2 are each amended to read as follows:

~~((+))~~ The department of health shall develop recommendations concerning evidence-based practices for testing for blood-borne pathogens of children under one year of age who have been placed in out-of-home care and shall identify the specific pathogens for which testing is recommended.

~~((2) The department shall report to the appropriate committees of the legislature on the recommendations developed in accordance with subsection (1) of this section by January 1, 2005.))~~

Sec. 76. RCW 74.13.289 and 2004 c 40 s 3 are each amended to read as follows:

(1) Upon any placement, the department ~~((of social and health services))~~ or supervising agency shall inform each out-of-home care provider if the child to be placed in that provider's care is infected with a blood-borne pathogen, and shall identify the specific blood-borne pathogen for which the child was tested if known by the department or supervising agency.

(2) All out-of-home care providers licensed by the department shall receive training related to blood-borne pathogens, including prevention, transmission, infection control, treatment, testing, and confidentiality.

(3) Any disclosure of information related to HIV must be in accordance with RCW 70.24.105.

(4) The department of health shall identify by rule the term "blood-borne pathogen" as used in this section.

Sec. 77. RCW 74.13.300 and 1990 c 284 s 12 are each amended to read as follows:

(1) Whenever a child has been placed in a foster family home by the department or ~~((a child-placing))~~ supervising agency and the child has thereafter resided in the home for at least ninety consecutive days, the department or ~~((child-placing))~~ supervising agency shall notify the foster family at least five days prior to moving the child to another placement, unless:

- (a) A court order has been entered requiring an immediate change in placement;
- (b) The child is being returned home;
- (c) The child's safety is in jeopardy; or
- (d) The child is residing in a receiving home or a group home.

(2) If the child has resided in a foster family home for less than ninety days or if, due to one or more of the circumstances in subsection (1) of this section, it is not possible to give five days' notification, the department or ~~((child-placing))~~ supervising agency shall notify the foster family of proposed placement changes as soon as reasonably possible.

(3) This section is intended solely to assist in minimizing disruption to the child in changing foster care placements. Nothing in this section shall be construed to require that a court hearing be held prior to changing a child's foster care placement nor to create any substantive custody rights in the foster parents.

Sec. 78. RCW 74.13.310 and 1990 c 284 s 13 are each amended to read as follows:

Adequate foster parent training has been identified as directly associated with increasing the length of time foster parents are willing to provide foster care and reducing the number of placement disruptions for children. Placement disruptions can be harmful to children by denying them consistent and nurturing support. Foster parents have expressed the desire to receive training in addition to the foster parent ~~((SCOPE))~~ training currently offered. Foster parents who care for more demanding children, such as children with severe emotional, mental, or physical handicaps, would especially benefit from additional training. The department and supervising agency shall develop additional training for foster parents that focuses on skills to assist foster parents in caring for emotionally, mentally, or physically handicapped children.

Sec. 79. RCW 74.13.315 and 1997 c 272 s 6 are each amended to read as follows:

The department or supervising agency may provide child care for all foster parents who are required to attend department-sponsored or supervising agency-sponsored meetings or training sessions. If the department or supervising agency does not provide such child care, the department or supervising agency, where feasible, shall conduct the activities covered by this section in the foster parent's home or other location acceptable to the foster parent.

Sec. 80. RCW 74.13.320 and 1990 c 284 s 15 are each amended to read as follows:

~~((The legislature finds that during the fiscal years 1987 to 1989 the number of children in foster care has risen by 14.3 percent. At the same time there has been a 31 percent turnover rate in foster homes because many foster parents have declined to continue to care for foster children. This situation has caused a dangerously critical shortage of foster homes.~~

~~—The department of social and health services shall develop and implement a project to recruit more foster homes and adoptive homes for special needs children by developing a request for proposal to licensed private foster care, licensed adoption agencies, and other organizations qualified to provide this service.~~

~~—The project shall consist of one statewide administrator of recruitment programs, and one or more licensed foster care or adoption agency contracts in each of the six departmental regions. These contracts shall enhance currently provided services and may not replace services currently funded by the agencies. No more than sixty thousand dollars may be spent annually to fund the administrator position.~~

~~—The agencies shall recruit foster care homes and adoptive homes for children classified as special needs children under chapter 74.08 RCW. The agencies shall utilize their own network of contacts and shall also develop programs similar to those used effectively in other states. The department shall expand the foster-adopt program statewide to encourage stable placements for foster children for whom permanent out-of-home placement is a likelihood. The department shall carefully consider existing programs to eliminate duplication of services.))~~

The department shall assist ~~((the private contractors))~~ supervising agencies by providing printing services for informational brochures and other necessary recruitment materials. No more than fifty thousand dollars of the funds provided for this section may be expended annually for recruitment materials.

Sec. 81. RCW 74.13.325 and 1997 c 272 s 3 are each amended to read as follows:

Within available resources, the department and supervising agencies shall increase the number of adoptive and foster families available to accept children through an intensive recruitment and retention program. The department shall ~~((contract with a private agency to))~~ enter into performance-based contracts with supervising agencies, under which the

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agencies will coordinate all foster care and adoptive home recruitment activities ~~((for the department and private agencies)).~~

Sec. 82. RCW 74.13.333 and 2004 c 181 s 1 are each amended to read as follows:

A foster parent who believes that a department or supervising agency employee has retaliated against the foster parent or in any other manner discriminated against the foster parent because:

(1) The foster parent made a complaint with the office of the family and children's ombudsman, the attorney general, law enforcement agencies, ~~((or))~~ the department, or the supervising agency, provided information, or otherwise cooperated with the investigation of such a complaint;

(2) The foster parent has caused to be instituted any proceedings under or related to Title 13 RCW;

(3) The foster parent has testified or is about to testify in any proceedings under or related to Title 13 RCW;

(4) The foster parent has advocated for services on behalf of the foster child;

(5) The foster parent has sought to adopt a foster child in the foster parent's care; or

(6) The foster parent has discussed or consulted with anyone concerning the foster parent's rights under this chapter or chapter 74.15 or 13.34 RCW,

may file a complaint with the office of the family and children's ombudsman. The office of the family and children's ombudsman shall include its recommendations regarding complaints filed under this section in its annual report pursuant to RCW 43.06A.030. The office of the family and children's ombudsman shall identify trends which may indicate a need to improve relations between the department or supervising agency and foster parents.

Sec. 83. RCW 74.13.334 and 2004 c 181 s 2 are each amended to read as follows:

The department and supervising agency shall develop procedures for responding to recommendations of the office of the family and children's ombudsman as a result of any and all complaints filed by foster parents under RCW 74.13.333.

Sec. 84. RCW 74.13.500 and 2005 c 274 s 351 are each amended to read as follows:

(1) Consistent with the provisions of chapter 42.56 RCW and applicable federal law, the secretary, or the secretary's designee, shall disclose information regarding the abuse or neglect of a child, the investigation of the abuse, neglect, or near fatality of a child, and any services related to the abuse or neglect of a child if any one of the following factors is present:

(a) The subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained by the department in its case and management information system;

(b) The investigation of the abuse or neglect of the child by the department or the provision of services by the department or a supervising agency has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a prosecuting attorney, any other state or local investigative agency or official, or by a judge of the superior court;

(c) There has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which such individual is named as the subject of the report; or

(d) The child named in the report has died and the child's death resulted from abuse or neglect or the child was in the care of, or receiving services from the department or a supervising agency at the time of death or within twelve months before death.

(2) The secretary is not required to disclose information if the factors in subsection (1) of this section are present if he or she specifically determines the disclosure is contrary to the best

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interests of the child, the child's siblings, or other children in the household.

(3) Except for cases in subsection (1)(d) of this section, requests for information under this section shall specifically identify the case about which information is sought and the facts that support a determination that one of the factors specified in subsection (1) of this section is present.

(4) For the purposes of this section, "near fatality" means an act that, as certified by a physician, places the child in serious or critical condition. The secretary is under no obligation to have an act certified by a physician in order to comply with this section.

Sec. 85. RCW 74.13.515 and 2005 c 274 s 352 are each amended to read as follows:

For purposes of RCW 74.13.500(1)(d), the secretary must make the fullest possible disclosure consistent with chapter 42.56 RCW and applicable federal law in cases of all fatalities of children who were in the care of, or receiving services from, the department or a supervising agency at the time of their death or within the twelve months previous to their death.

If the secretary specifically determines that disclosure of the name of the deceased child is contrary to the best interests of the child's siblings or other children in the household, the secretary may remove personally identifying information.

For the purposes of this section, "personally identifying information" means the name, street address, social security number, and day of birth of the child who died and of private persons who are relatives of the child named in child welfare records. "Personally identifying information" shall not include the month or year of birth of the child who has died. Once this personally identifying information is removed, the remainder of the records pertaining to a child who has died must be released regardless of whether the remaining facts in the records are embarrassing to the unidentifiable other private parties or to identifiable public workers who handled the case.

Sec. 86. RCW 74.13.525 and 2005 c 274 s 353 are each amended to read as follows:

The department or supervising agency, when acting in good faith, is immune from any criminal or civil liability, except as provided under RCW 42.56.550, for any action taken under RCW 74.13.500 through 74.13.520.

Sec. 87. RCW 74.13.530 and 2001 c 318 s 4 are each amended to read as follows:

(1) No child may be placed or remain in a specific out-of-home placement under this chapter or chapter 13.34 RCW when there is a conflict of interest on the part of any adult residing in the home in which the child is to be or has been placed. A conflict of interest exists when:

(a) There is an adult in the home who, as a result of: (i) His or her employment; and (ii) an allegation of abuse or neglect of the child, conducts or has conducted an investigation of the allegation; or

(b) The child has been, is, or is likely to be a witness in any pending cause of action against any adult in the home when the cause includes: (i) An allegation of abuse or neglect against the child or any sibling of the child; or (ii) a claim of damages resulting from wrongful interference with the parent-child relationship of the child and his or her biological or adoptive parent.

(2) For purposes of this section, "investigation" means the exercise of professional judgment in the review of allegations of abuse or neglect by: (a) Law enforcement personnel; (b) persons employed by, or under contract with, the state; (c) persons licensed to practice law and their employees; and (d) mental health professionals as defined in chapter 71.05 RCW.

(3) The prohibition set forth in subsection (1) of this section may not be waived or deferred by the department or a supervising agency under any circumstance or at the request of any person, regardless of who has made the request or the length of time of the requested placement.

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Sec. 88. RCW 74.13.560 and 2003 c 112 s 3 are each amended to read as follows:

The administrative regions of the department and the supervising agencies shall develop protocols with the respective school districts in their regions specifying specific strategies for communication, coordination, and collaboration regarding the status and progress of foster children placed in the region, in order to maximize the educational continuity and achievement for foster children. The protocols shall include methods to assure effective sharing of information consistent with RCW 28A.225.330.

Sec. 89. RCW 74.13.590 and 2003 c 112 s 6 are each amended to read as follows:

The department and supervising agencies shall perform the tasks provided in RCW 74.13.550 through 74.13.580 based on available resources.

Sec. 90. RCW 74.13.600 and 2003 c 284 s 1 are each amended to read as follows:

(1) For the purposes of this section, "kin" means persons eighteen years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and means: (a) Any person denoted by the prefix "grand" or "great"; (b) sibling, whether full, half, or step; (c) uncle or aunt; (d) nephew or niece; or (e) first cousin.

(2) The department and supervising agencies shall plan, design, and implement strategies to prioritize the placement of children with willing and able kin when out-of-home placement is required.

These strategies must include at least the following:

(a) Development of standardized, statewide procedures to be used by supervising agencies when searching for kin of children prior to out-of-home placement. The procedures must include a requirement that documentation be maintained in the child's case record that identifies kin, and documentation that identifies the assessment criteria and procedures that were followed during all kin searches. The procedures must be used when a child is placed in out-of-home care under authority of chapter 13.34 RCW, when a petition is filed under RCW 13.32A.140, or when a child is placed under a voluntary placement agreement. To assist with implementation of the procedures, the department or supervising agencies shall request that the juvenile court require parents to disclose to the ~~((department))~~ agencies all contact information for available and appropriate kin within two weeks of an entered order. For placements under signed voluntary agreements, the department and supervising agencies shall encourage the parents to disclose to the department and agencies all contact information for available and appropriate kin within two weeks of the date the parent signs the voluntary placement agreement.

(b) Development of procedures for conducting active outreach efforts to identify and locate kin during all searches. The procedures must include at least the following elements:

(i) Reasonable efforts to interview known kin, friends, teachers, and other identified community members who may have knowledge of the child's kin, within sixty days of the child entering out-of-home care;

(ii) Increased use of those procedures determined by research to be the most effective methods of promoting reunification efforts, permanency planning, and placement decisions;

(iii) Contacts with kin identified through outreach efforts and interviews under this subsection as part of permanency planning activities and change of placement discussions;

(iv) Establishment of a process for ongoing contact with kin who express interest in being considered as a placement resource for the child; and

(v) A requirement that when the decision is made to not place the child with any kin, the department or supervising agency provides documentation as part of the child's individual service and safety plan that clearly identifies the rationale for the

decision and corrective action or actions the kin must take to be considered as a viable placement option.

(3) Nothing in this section shall be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable or the child or family is not eligible for such services.

Sec. 91. RCW 74.13.640 and 2008 c 211 s 1 are each amended to read as follows:

(1) The department ~~((of social and health services))~~ shall conduct a child fatality review in the event of an unexpected death of a minor in the state who is in the care of or receiving services described in chapter 74.13 RCW from the department or a supervising agency or who has been in the care of or received services described in chapter 74.13 RCW from the department or a supervising agency within one year preceding the minor's death.

(2) Upon conclusion of a child fatality review required pursuant to subsection (1) of this section, the department shall within one hundred eighty days following the fatality issue a report on the results of the review, unless an extension has been granted by the governor. Reports shall be distributed to the appropriate committees of the legislature, and the department shall create a public web site where all child fatality review reports required under this section shall be posted and maintained.

(3) The department shall develop and implement procedures to carry out the requirements of subsections (1) and (2) of this section.

(4) In the event a child fatality is the result of apparent abuse or neglect by the child's parent or caregiver, the department shall ensure that the fatality review team is comprised of individuals who had no previous involvement in the case and whose professional expertise is pertinent to the dynamics of the case.

(5) In the event of a near-fatality of a child who is in the care of or receiving services described in this chapter from the department or who has been in the care of or received services described in this chapter from the department within one year preceding the near-fatality, the department shall promptly notify the office of the family and children's ombudsman.

Sec. 92. RCW 74.13.650 and 2007 c 220 s 7 are each amended to read as follows:

A foster parent critical support and retention program is established to retain foster parents who care for sexually reactive children, physically assaultive children, or children with other high-risk behaviors, as defined in RCW 74.13.280. Services shall consist of short-term therapeutic and educational interventions to support the stability of the placement. The ~~((foster parent critical support and retention program is to be implemented under the division of children and family services' contract and supervision. A contractor must demonstrate experience providing in-home case management, as well as experience working with caregivers of children with significant behavioral issues that pose a threat to others or themselves or the stability of the placement))~~ department shall enter into performance-based contracts with supervising agencies to provide this program.

Sec. 93. RCW 74.13.670 and 2007 c 220 s 5 are each amended to read as follows:

(1) A care provider may not be found to have abused or neglected a child under chapter 26.44 RCW or be denied a license pursuant to chapter 74.15 RCW and RCW 74.13.031 for any allegations of failure to supervise ~~((wherein))~~ in which:

(a) The allegations arise from the child's conduct that is substantially similar to prior behavior of the child, and:

(i) The child is a sexually reactive youth, exhibits high-risk behaviors, or is physically assaultive or physically aggressive as defined in RCW 74.13.280, and this information and the child's prior behavior was not disclosed to the care provider as required by RCW 74.13.280; and

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(ii) The care provider did not know or have reason to know that the child needed supervision as a sexually reactive or physically assaultive or physically aggressive youth, or because of a documented history of high-risk behaviors, as a result of the care provider's involvement with or independent knowledge of the child or training and experience; or

(b) The child was not within the reasonable control of the care provider at the time of the incident that is the subject of the allegation, and the care provider was acting in good faith and did not know or have reason to know that reasonable control or supervision of the child was necessary to prevent harm or risk of harm to the child or other persons.

(2) Allegations of child abuse or neglect that meet the provisions of this section shall be designated as "unfounded" as defined in RCW 26.44.020.

NEW SECTION. Sec. 94. RCW 74.13.085, 74.13.0902, 74.13.095, and 74.15.031 are each recodified as new sections in chapter 43.215 RCW.

NEW SECTION. Sec. 95. RCW 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170 are each recodified as a new chapter in Title 74 RCW.

NEW SECTION. Sec. 96. Section 63 of this act expires June 30, 2014.

NEW SECTION. Sec. 97. The following acts or parts of acts are each repealed:

(1) RCW 13.34.803 (Drug-affected and alcohol-affected infants--Comprehensive plan--Report) and 1998 c 314 s 40;

(2) RCW 13.34.805 (Drug-affected infants--Study) and 1998 c 314 s 31;

(3) RCW 13.34.8051 (Drug-affected infants--Study--Alcohol-affected infants to be included) and 1998 c 314 s 32;

(4) RCW 13.34.810 (Implementation of chapter 314, Laws of 1998) and 1998 c 314 s 48;

(5) RCW 26.44.230 (Abuse of adolescents--Reviews and reports) and 2005 c 345 s 2;

(6) RCW 74.13.200 (Demonstration project for protection, care, and treatment of children at-risk of abuse or neglect) and 1979 ex.s. c 248 s 1;

(7) RCW 74.13.210 (Project day care center--Definition) and 1979 ex.s. c 248 s 2;

(8) RCW 74.13.220 (Project services) and 1979 ex.s. c 248 s 3;

(9) RCW 74.13.230 (Project shall utilize community services) and 1979 ex.s. c 248 s 4;

(10) RCW 74.13.340 (Foster parent liaison) and 1997 c 272 s 2;

(11) RCW 74.13.630 (Family decision meetings) and 2004 c 182 s 2; and

(12) RCW 74.13.800 (Intensive resource home pilot) and 2008 c 281 s 2.

NEW SECTION. Sec. 98. Section 8 of 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 Hargrove and Stevens 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 Senator Hargrove and others to Second Substitute House Bill No. 2106.

The motion by Senator Hargrove 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 "reforms;" strike the remainder of the title and insert "amending RCW 74.13.020, 74.15.010, 74.15.020, 74.15.050, 74.15.100, 26.44.020, 26.44.200, 13.34.025, 13.34.030, 13.34.065, 13.34.067, 13.34.094, 13.34.096, 13.34.125, 13.34.145, 13.34.155, 13.34.174, 13.34.176, 13.34.180, 13.34.210, 13.34.215, 13.34.230, 13.34.233, 13.34.245, 13.34.320, 13.34.330, 13.34.340, 13.34.350, 13.34.370, 13.34.380, 13.34.385, 13.34.390, 13.34.400, 74.13.010, 74.13.031, 74.13.0311, 74.13.032, 74.13.036, 74.13.037, 74.13.042, 74.13.045, 74.13.055, 74.13.060, 74.13.065, 74.13.075, 74.13.077, 74.13.096, 74.13.103, 74.13.106, 74.13.109, 74.13.124, 74.13.136, 74.13.165, 74.13.170, 74.13.250, 74.13.283, 74.13.285, 74.13.288, 74.13.289, 74.13.300, 74.13.310, 74.13.315, 74.13.320, 74.13.325, 74.13.333, 74.13.334, 74.13.500, 74.13.515, 74.13.525, 74.13.530, 74.13.560, 74.13.590, 74.13.600, 74.13.640, 74.13.650, and 74.13.670; reenacting and amending RCW 74.15.030, 13.34.130, 13.34.136, 13.34.138, and 74.13.280; adding new sections to chapter 74.13 RCW; adding a new section to chapter 43.10 RCW; adding a new section to chapter 26.44 RCW; creating a new section; recodifying RCW 74.13.085, 74.13.0902, 74.13.095, 74.15.031, 74.13.100, 74.13.103, 74.13.106, 74.13.109, 74.13.112, 74.13.115, 74.13.116, 74.13.118, 74.13.121, 74.13.124, 74.13.127, 74.13.130, 74.13.133, 74.13.136, 74.13.139, 74.13.145, 74.13.150, 74.13.152, 74.13.153, 74.13.154, 74.13.155, 74.13.156, 74.13.157, 74.13.158, 74.13.159, 74.13.165, and 74.13.170; repealing RCW 13.34.803, 13.34.805, 13.34.8051, 13.34.810, 26.44.230, 74.13.200, 74.13.210, 74.13.220, 74.13.230, 74.13.340, 74.13.630, and 74.13.800; providing expiration dates; and declaring an emergency."

MOTION

On motion of Senator Hargrove, the rules were suspended, Second Substitute House Bill No. 2106 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.

Senators Sheldon and Roach spoke against passage of the bill.

POINT OF INQUIRY

Senator Franklin: "Would Senator Hargrove yield to a question? Senator Hargrove, much discussion about this transfer and privatizing of child welfare. You know that for me children, like many of you, children, they are very close to my heart and not only that when it comes to families, when you work the families have first preference if they are, have been assessed and meet the criteria to have first preference to have that child to keep the child in the family. Does that still exist?"

Senator Hargrove: "Thank you Senator Franklin. There was a lot of unclarity in the last few minutes of speech obviously. The, all of the existing laws we have put in place still exist. Relative placements are still the first preference. We have the same process in court, the same standards for child abuse, we have the same opportunity for the office of child and family ombudsman to receive a call and intervene in a case, we have the same opportunity for the legislature to be involved that they have now. The issue has been a lack of accountability in the existing system on major performance standards, like reunifications, like safety, like permanency, like the multiple times kids move through foster care. We have an agency responsible for everything. We can make progress on all of those to the benefit of children and families and we haven't

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changed any of those other provisions we've put in law over the years."

MOTION

On motion of Senator Marr, Senators Brown and Haugen were excused.

The President declared the question before the Senate to be the final passage of Second Substitute House Bill No. 2106 as amended by the Senate.

ROLL CALL

The Secretary called the roll on the final passage of Second Substitute House Bill No. 2106 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 37; Nays, 10; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Carrell, Eide, Fairley, Franklin, Hargrove, Hatfield, Haugen, Hewitt, Hobbs, Holmquist, Honeyford, Jacobsen, Jarrett, Kastama, Kauffman, Keiser, King, Kline, Kohl-Welles, McAuliffe, McCaslin, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Regala, Shin, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Delvin, Fraser, Kilmer, Marr, McDermott, Pridemore, Ranker, Roach, Schoesler and Sheldon

Excused: Senators Brown and Rockefeller

SECOND SUBSTITUTE HOUSE BILL NO. 2106 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 McAuliffe: "Thank you Mr. President. Today we passed a pretty historic bill for education and our Senator from the Third District thanked the members of the basic education task force and their staff. I would be remiss if I did not recognize the educational team that we have here in the senate who serve both sides of the aisle. They are: Susan Mielke, our nonpartisan staff and Heather Lewis-Lechner who also serves with us. It would be Barbara McClain from the House who is nonpartisan, Mary Kenfield from the House and also Kathleen Lawrence from the other side of the aisle. These people have worked with us over the last I want to say ten, twenty years to bring forward education policy that we are, all struggle to make because we want to serve the children in our schools. I want to tell you how important this staff is because they bring forward many amendments for us, many bills for us. This bill that we passed today has a historic rewriting. I do not think our staff has ever rewritten a bill so many times and I want to recognize them and thank them because we are only as good as our staff is, so thank you all."

MOTION

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

REPORTS OF STANDING COMMITTEES

April 15, 2009

SB 5407 Prime Sponsor, Senator Tom: Making 2009 supplemental operating appropriations. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5407 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore, Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Honeyford; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland; Carrell and Murray.

Passed to Committee on Rules for second reading.

April 15, 2009

SB 5600 Prime Sponsor, Senator Prentice: Making 2009-2011 operating appropriations. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 5600 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore, Regala and Rockefeller.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Carrell; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

April 16, 2009

SB 6157 Prime Sponsor, Senator Prentice: Calculating compensation for public retirement purposes during the 2009-2011 fiscal biennium. Reported by Committee on Ways & Means

MAJORITY recommendation: Do pass. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Murray; Oemig; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Hewitt; Parlette; Pflug and Schoesler.

MINORITY recommendation: That it be referred without recommendation. Signed by Senators Brandland and Honeyford.

Passed to Committee on Rules for second reading.

April 16, 2009

SB 6158 Prime Sponsor, Senator Keiser: Delaying the implementation of the family leave insurance program. Reported by Committee on Ways & Means

MAJORITY recommendation: That Substitute Senate Bill No. 6158 be substituted therefor, and the substitute bill do pass. Signed by Senators Prentice, Chair; Fraser, Vice

NINETY-FIFTH DAY, APRIL 16, 2009

Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Hobbs; Keiser; Kline; Kohl-Welles; McDermott; Oemig; Pridemore and Regala.

MINORITY recommendation: Do not pass. Signed by Senators Zarelli; Brandland; Hewitt; Honeyford; Parlette; Pflug and Schoesler.

Passed to Committee on Rules for second reading.

MOTION

On motion of Senator Eide, all measures listed on the Standing Committee report were referred to the committees as designated.

SIGNED BY THE PRESIDENT

The President signed:
SENATE BILL NO. 5599,

MOTION

At 8:18 p.m., on motion of Senator Eide, the Senate adjourned until 9:30 a.m. Friday, April 17, 2009.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

1022-S	President Signed.	5
	Speaker Signed..	1
1050	Second Reading.	102
	Third Reading Final Passage.	102
1063	President Signed.	5
	Speaker Signed..	1
1264	President Signed.	5
	Speaker Signed..	1
1355-S2	Second Reading.	15
	Third Reading Final Passage.	15
1361	Second Reading.	18
	Third Reading Final Passage.	18
1397-S	President Signed.	5
	Speaker Signed..	1
1413-S	President Signed.	5
	Speaker Signed..	1
1419-S	President Signed.	5
	Speaker Signed..	1
1426	President Signed.	5
	Speaker Signed..	1
1461	President Signed.	5
	Speaker Signed..	1

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1498	President Signed.	5	Other Action.	97
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	Speaker Signed.. . . .	1		President Signed.
1516-S				Speaker Signed.. . . .
	Other Action.	19	2105-S	
	Second Reading.	18, 19		President Signed.
	Third Reading Final Passage.	19		Speaker Signed.. . . .
1522-S2			2106-S2	
	President Signed.	5		Other Action.
	Speaker Signed.. . . .	1		Second Reading.
1532-S				Third Reading Final Passage.
	President Signed.	5	2132	
	Speaker Signed.. . . .	1		Second Reading.
1553-S				Third Reading Final Passage.
	Other Action.	67, 68, 69	2194	
	Second Reading.	66, 67, 69		Introduction & 1st Reading.
	Third Reading Final Passage.	69	2227-S2	
1555-S				Other Action.
	Other Action.	65		Second Reading.
	Second Reading.	61, 65		Third Reading Final Passage.
	Third Reading Final Passage.	66	2261-S	
1578				Other Action.
	President Signed.	5		Second Reading.
	Speaker Signed.. . . .	1		Third Reading Final Passage.
1619-S			2287-S	
	Other Action.	18		Other Action.
	Second Reading.	16, 17		Second Reading.
	Third Reading Final Passage.	18		Third Reading Final Passage.
1701-S2			2299	
	Other Action.	11, 15		Other Action.
	Second Reading.	8, 11		Second Reading.
	Third Reading Final Passage.	15		Third Reading Final Passage.
1733-S			2327-S	
	President Signed.	5		Messages.
	Speaker Signed.. . . .	1	4000	
1776-S				President Signed.
	Other Action.	4		Speaker Signed.. . . .
	Second Reading.	3	4005	
	Third Reading Final Passage.	5		President Signed.
1782-S				Speaker Signed.. . . .
	Other Action.	78	5044-S	
	Second Reading.	72, 78		Speaker Signed.. . . .
	Third Reading Final Passage.	78	5117-S	
1836				Speaker Signed.. . . .
	Other Action.	71	5267-S	
	Second Reading.	70, 71		Speaker Signed.. . . .
	Third Reading Final Passage.	71	5276-S	
1888				Speaker Signed.. . . .
	Second Reading.	79	5298	
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1946-S2			5303	
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	Third Reading Final Passage.	7		Speaker Signed.. . . .
1984-S			5356	
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1986				Committee Report.
	Other Action.	16	5480-S	
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5752-S Speaker Signed.. 1
576-S Speaker Signed.. 1
5765-S Speaker Signed.. 1
5797-S Speaker Signed.. 1
5873-S Speaker Signed.. 1
5882-S Speaker Signed.. 1
6068 Speaker Signed.. 1
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6175 Introduction & 1st Reading. 1
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6178 Introduction & 1st Reading. 2
6179 Introduction & 1st Reading. 2
6180 Introduction & 1st Reading. 2
6181 Introduction & 1st Reading. 2
6182 Introduction & 1st Reading. 2
6183 Introduction & 1st Reading. 2
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