

**SIXTIETH DAY**

**MORNING SESSION**

Senate Chamber, Olympia, Thursday, March 11, 2010

The Senate was called to order at 9:30 a.m. by President Owen. The Secretary called the roll and announced to the President that all Senators were present with the exception of Senators Fairley, Holmquist, McCaslin and Murray.

The Sergeant at Arms Color Guard consisting of Pages Grant Kallstrom and Madison Scully, presented the Colors. Pastor Jonathan Schmick of Marine View Presbyterian 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**

There being no objection, the Senate advanced to the first order of business.

**REPORTS OF STANDING COMMITTEES**

March 8, 2010

ESHB 2954 Prime Sponsor, Committee on Health & Human Services Appropriations: Concerning license fees for nursing homes, boarding homes, and adult family homes. Reported by Committee on Ways & Means

**MAJORITY recommendation:** Do pass as amended. Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Fairley; Keiser; Kline; Kohl-Welles; McDermott; Murray; Pridemore; Regala and Rockefeller.

**MINORITY recommendation:** Do not pass. Signed by Senators Zarelli; Carrell; Honeyford and Schoesler.

**MINORITY recommendation:** That it be referred without recommendation. Signed by Senators Brandland; Hewitt and Parlette.

Passed to Committee on Rules for second reading.

**MOTION**

On motion of Senator Eide, the measure listed on the Standing Committee report was referred to the committee as designated.

**MOTION**

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

**MESSAGE FROM THE HOUSE**

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
**ENGROSSED SUBSTITUTE HOUSE BILL 2424.**  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
**SECOND SUBSTITUTE HOUSE BILL 3076.**  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 10, 2010

MR. PRESIDENT:

The House has passed:  
**SECOND SUBSTITUTE SENATE BILL 6578.**  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

**MESSAGE FROM THE HOUSE**

March 10, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:  
**ENGROSSED SUBSTITUTE HOUSE BILL 2547.**  
 and the same is 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 6883 by Senators Zarelli, Carrell, Holmquist, Becker, Stevens, Morton, Parlette, Honeyford, Brandland, King and Hewitt

AN ACT Relating to payment of legislators' expenses; amending RCW 44.04.120; and declaring an emergency.

Referred to Committee on Government Operations & Elections.

E2SHB 2956 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Williams and Maxwell)

AN ACT Relating to a hospital safety net assessment for increased hospital payments to improve health care access for

the citizens of Washington; amending 2009 c 564 s 209 (uncodified); reenacting and amending RCW 43.84.092; adding a new section to chapter 70.47 RCW; adding a new chapter to Title 74 RCW; creating a new section; providing an expiration date; and declaring an emergency.

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 with the exception of Engrossed Second Substitute House Bill No. 2956 which was referred to the Committee on Ways & Means under suspension of the rules.

#### MOTION

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

#### MOTION

Senator Schoesler moved adoption of the following resolution:

#### SENATE RESOLUTION

8673

By Senators Schoesler, Hatfield, and Shin

WHEREAS, On June 14, 1777 the Second Continental Congress adopted a resolution setting forth the stars-and-stripes design of our nation's flag; and

WHEREAS, In 1916, President Woodrow Wilson proclaimed June 14th as Flag Day, marking the anniversary of the Flag Resolution of 1777; and

WHEREAS, The city of Fairfield, incorporated in 1905, began observing Flag Day with a public celebration in 1910, when the United States flag contained 46 stars, and six years prior to President Wilson's Flag Day proclamation; and

WHEREAS, Fairfield will celebrate Flag Day for the 100th consecutive year in 2010, a record believed to be unmatched by any community in the United States; and

WHEREAS, The community celebration will feature the dedication of a new flag pole at the Southeast Spokane County Museum, which had been the Fairfield City Hall in 1910, when the community first observed Flag Day; and

WHEREAS, The Southeast Spokane County Historical Society will present Fairfield with a new flag to be raised, and a new flag pole will be dedicated to the men and women of Fairfield and Southeast Spokane County who have served in our country's defense; and

WHEREAS, The new Fairfield flag will have flown over the United States Capitol on March 3rd, the day Fairfield was incorporated 105 years ago; and

WHEREAS, The Fairfield Service Club has put together a program for the Flag Day celebration, which will take place from June 11th to 13th, and includes not only the flag-raising and flag pole dedication but several traditional events, such as the annual parade and high school reunions that bring present and former Fairfield residents back together;

NOW, THEREFORE, BE IT RESOLVED, That the Washington State Senate honor the centennial of Fairfield's Flag

Day celebration and the work of the Fairfield Service Club, the Southeast Spokane County Historical Society, and the city of Fairfield on this 100th anniversary of the community's patriotic observance.

Senator Schoesler spoke in favor of adoption of the resolution.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8673.

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

#### INTRODUCTION OF SPECIAL GUESTS

The President welcomed and introduced the residents of the City of Fairfield who were seated in the gallery.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6774 and asks the Senate to concur thereon. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### POINT OF ORDER

Senator Marr: "Mr. President, pursuant to Rule 66, I move the House amendment to Engrossed Substitute Senate Bill No. 6774 beyond the scope and object of the underlying bill. I have a very brief argument. The bill as it left the Senate simply provided an alternative governance structure for transportation benefit districts that include more than, that include an area in more than one jurisdiction. The House amendment, however, has nothing to do with this issue. Rather, it expands the jurisdictions eligible to create a transportation benefit district. Under current law only counties and cities may create a TBD or Transportation Benefit District. Under current law, or however, under the House amendment certain districts are allowed temporary create a TBD for the purpose of funding transportation improvements. Because the House amendment addresses expanding the list of jurisdictions eligible to create a TBD rather than simply addressing the governance structure of multi-jurisdiction TBD, I respectfully request a ruling that the amendment is beyond the scope and object of the bill and violates Rule 66. Thank Mr. President."

#### MOTION

On motion of Senator Eide, further consideration of Engrossed Substitute Senate Bill No. 6774 was deferred and the bill held its place on the days calendar.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

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The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6611 and asks the Senate to concur thereon. and the same is herewith transmitted.

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

BARBARA BAKER, Chief Clerk

APPOINTMENT OF BRIAN UNTI

MOTION

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9248, Brian Unti as a member of the Board of Trustees, Renton Technical College District No. 27.

Senator Pridemore moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6611. Senator Pridemore spoke in favor of the motion.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9248, Brian Unti as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6611.

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

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6611 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6611, as amended by the House.

ROLL CALL

Absent: Senator Zarelli

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6611, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 45; Nays, 0; Absent, 4; Excused, 0.

Excused: Senators Fairley, Holmquist and McCaslin  
Gubernatorial Appointment No. 9248, Brian Unti, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

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

MOTION

Absent: Senators Fairley, Holmquist, McCaslin and Murray  
SUBSTITUTE SENATE BILL NO. 6611, as amended by the House, 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.

On motion of Senator Delvin, Senators Hewitt and Zarelli were excused.

SIGNED BY THE PRESIDENT

The President signed:  
ENGROSSED SUBSTITUTE SENATE BILL 6538,  
SUBSTITUTE SENATE BILL 6548,  
SECOND SUBSTITUTE SENATE BILL 6575,  
SENATE BILL 6804.

MOTION

On motion of Senator Brandland, Senators Holmquist and McCaslin were excused.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

MOTION

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

Senator Prentice moved that Gubernatorial Appointment No. 9223, Tyler Page, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed. Senator Prentice spoke in favor of the motion.

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

APPOINTMENT OF TYLER PAGE

MOTION

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9223, Tyler Page as a member of the Board of Trustees, Renton Technical College District No. 27.

Senator Prentice moved that Gubernatorial Appointment No. 9248, Brian Unti, as a member of the Board of Trustees, Renton Technical College District No. 27, be confirmed.

Senator Prentice spoke in favor of the motion.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9223, Tyler Page as a member of the Board of Trustees, Renton Technical College District No. 27 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 0; Excused, 4.

MOTION

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

Excused: Senators Hewitt, Holmquist, McCaslin and Zarelli  
Gubernatorial Appointment No. 9223, Tyler Page, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Renton Technical College District No. 27.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 2776 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator McAuliffe moved that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 2776 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate insist on its position on the Senate amendment(s) to Substitute House Bill No. 2776 and ask the House to concur hereon.

The motion by Senator McAuliffe carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House Bill No. 2776 and asked the House to concur thereon by voice vote.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to SUBSTITUTE HOUSE BILL NO. 3124 and asks the Senate to recede therefrom.

and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Benton moved that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 3124 and ask the House to concur thereon.

The President declared the question before the Senate to be motion by Senator Benton that the Senate insist on its position in the Senate amendment(s) to Substitute House Bill No. 3124 and ask the House to concur hereon.

The motion by Senator Benton carried and the Senate insisted on its position in the Senate amendment(s) to Substitute House

Bill No. 3124 and asked the House to concur thereon by voice vote.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SECOND ENGROSSED SUBSTITUTE SENATE BILL NO. 6508. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6508-S.E2 AMH PEDE ADAM 153, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 4.20.010 and 1917 c 123 s 1 are each amended to read as follows:

(1) When the death of a person is caused by the wrongful act, neglect or default of another his personal representative may maintain an action for damages against the person causing the death; and although the death shall have been caused under such circumstances as amount, in law, to a felony.

(2) The liability of a governmental entity in an action under this section that is based on a parent's significant involvement in an adult child's life is limited to situations where the governmental entity's acts or omissions are negligent and are a proximate cause of the death of the claimant, and where the governmental entity is not otherwise immune or where the governmental entity's liability is not otherwise limited by statute or case law.

(3) For the purposes of this section, "governmental entity" means the state, local agencies, political subdivisions, and any officers, employees, or agents of the state, local agencies, or political subdivisions.

Sec. 2. RCW 4.20.020 and 2007 c 156 s 29 are each amended to read as follows:

(1) Every ~~((such))~~ action under RCW 4.20.010 shall be for the benefit of the ~~((wife, husband))~~ spouse, state registered domestic partner, ~~((child))~~ or children, including stepchildren, of the person whose death shall have been so caused. If there ~~((be))~~ is no ~~((wife, husband))~~ spouse, state registered domestic partner, or ~~((such))~~ child ~~((or children, such)),~~ the action may be maintained for the benefit of:

(a) The parents (– sisters, or brothers, who may be dependent upon the deceased person for support, and who are resident within the United States at the time of his death) of a deceased adult child if the parents are financially dependent upon the adult child for support or if the parents have had significant involvement in the adult child's life; or

(b) Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

In every such action the jury may ~~((give such))~~ award economic and noneconomic damages as ~~((;))~~ under all circumstances of the case ~~((;))~~ may to them seem just. In an action under RCW 4.20.010 that is based on a parent's significant involvement in an adult child's life, economic damages include any student loan balance that the parent may be obligated to repay as a result of acting as a cosigner or guarantor on the decedent's student loans, except for student loan balances that, under the terms of the loan, are eligible for a complete discharge upon the death of the borrower.

(2) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of

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an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the adult child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the adult child, and in-person interaction with the adult child during holidays, birthdays, and other events.

**Sec. 3.** RCW 4.20.046 and 2008 c 6 s 409 are each amended to read as follows:

(1) All causes of action by a person or persons against another person or persons shall survive to the personal representatives of the former and against the personal representatives of the latter, whether ~~((such))~~ the actions arise on contract or otherwise, and whether or not ~~((such))~~ the actions would have survived at the common law or prior to the date of enactment of this section ~~((—PROVIDED, HOWEVER, That))~~.

(2) In addition to recovering economic losses for the estate, the personal representative ~~((shall only be))~~ is entitled to recover on behalf of those beneficiaries identified under RCW 4.20.060 any noneconomic damages for pain and suffering, anxiety, emotional distress, or humiliation personal to and suffered by ~~((a))~~ the deceased ~~((on behalf of those beneficiaries enumerated in RCW 4.20.020, and))~~ in such amounts as determined by a jury to be just under all the circumstances of the case. Damages under this section are recoverable regardless of whether or not the death was occasioned by the injury that is the basis for the action.

(3) The liability of property of spouses or domestic partners held by them as community property and subject to execution in satisfaction of a claim enforceable against such property so held shall not be affected by the death of either or both spouses or either or both domestic partners; and a cause of action shall remain an asset as though both claiming spouses or both claiming domestic partners continued to live despite the death of either or both claiming spouses or both claiming domestic partners.

~~((2))~~ (4) Where death or an injury to person or property, resulting from a wrongful act, neglect or default, occurs simultaneously with or after the death of a person who would have been liable therefor if his or her death had not occurred simultaneously with such death or injury or had not intervened between the wrongful act, neglect or default and the resulting death or injury, an action to recover damages for such death or injury may be maintained against the personal representative of such person.

**Sec. 4.** RCW 4.20.060 and 2007 c 156 s 30 are each amended to read as follows:

(1) No action for a personal injury to any person occasioning death shall abate, nor shall ~~((such))~~ the right of action ~~((determine))~~ terminate, by reason of ~~((such))~~ the death ~~((;))~~ if ~~((such))~~ the person has a surviving ~~((spouse, state registered domestic partner, or child living, including stepchildren, or leaving no surviving spouse, state registered domestic partner, or such children, if there is dependent upon the deceased for support and resident within the United States at the time of decedent's death, parents, sisters, or brothers; but such action may be prosecuted, or commenced and prosecuted, by the executor or administrator))~~ beneficiary in whose favor the action may be brought under subsection (2) of this section.

(2) An action under this section shall be brought by the personal representative of the deceased ~~((;))~~ in favor of ~~((such))~~ the surviving spouse or state registered domestic partner ~~((—or in favor of the surviving spouse or state registered domestic partner))~~ and ~~((such))~~ children ~~((—or if)).~~ If there is no surviving spouse ~~((;))~~, state registered domestic partner, ~~((in favor of such child))~~ or children, ~~((or if no surviving spouse, state registered domestic partner, or such child or children, then))~~ the action shall be brought in favor of the decedent's;

~~((a))~~ Parents ~~((—sisters, or brothers who may be dependent upon such person for support, and resident in the United States at the time of decedent's death))~~ if the parents are financially dependent upon the decedent for support or if the parents have had significant involvement in the decedent's life; or

~~((b))~~ Sisters or brothers who are financially dependent upon the decedent for support if there is no spouse, state registered domestic partner, child, or parent.

(3) In addition to recovering economic losses, the persons identified in subsection (2) of this section are entitled to recover any noneconomic damages personal to and suffered by the decedent including, but not limited to, damages for the decedent's pain and suffering, anxiety, emotional distress, or humiliation, in such amounts as determined by a jury to be just under all the circumstances of the case.

(4) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**Sec. 5.** RCW 4.24.010 and 1998 c 237 s 2 are each amended to read as follows:

(1) A ~~((mother or father, or both))~~ parent who has regularly contributed to the support of his or her minor child, ~~((and the mother or father, or both, of a child on whom either, or both, are))~~ or a parent who is financially dependent on a minor child for support or who has had significant involvement in the minor child's life, may maintain or join ~~((as a party))~~ an action as plaintiff for the injury or death of the child.

(2) Each parent, separately from the other parent, is entitled to recover for his or her own loss regardless of marital status, even though this section creates only one cause of action ~~((—but if the parents of the child are not married, are separated, or not married to each other damages may be awarded to each plaintiff separately, as the trier of fact finds just and equitable)).~~

(3) If one parent brings an action under this section and the other parent is not named as a plaintiff, notice of the institution of the suit, together with a copy of the complaint, shall be served upon the other parent: PROVIDED, That notice shall be required only if parentage has been duly established.

Such notice shall be in compliance with the statutory requirements for a summons. Such notice shall state that the other parent must join as a party to the suit within twenty days or the right to recover damages under this section shall be barred. Failure of the other parent to timely appear shall bar such parent's action to recover any part of an award made to the party instituting the suit.

(4) In ~~((such))~~ an action under this section, in addition to damages for medical, hospital, medication expenses, and loss of services and support, damages may be recovered for the loss of love and companionship of the child and for injury to or destruction of the parent-child relationship in such amount as, under all the circumstances of the case, may be just.

(5) For the purposes of this section:

(a) "Financially dependent for support" means substantial dependence based on the receipt of services that have an economic or monetary value, or substantial dependence based on actual

monetary payments or contributions; and

(b) "Significant involvement" means demonstrated support of an emotional, psychological, or financial nature within the relationship, at or reasonably near the time of death, or at or reasonably near the time of the incident causing death. When determining if the parents have had significant involvement in the child's life, the court shall consider, but not be limited to, objective evidence of personal, verbal, written, or electronic contact with the child, and in-person interaction with the child during holidays, birthdays, and other events.

**NEW SECTION. Sec. 6.** This act applies to all causes of action that are based on deaths occurring on or after the effective date of this act.

**NEW SECTION. Sec. 7.** (1) On December 1, 2011, and every December 1st thereafter, the risk management division within the office of financial management shall report to the house of representatives ways and means committee, the house of representatives judiciary committee, the senate ways and means committee, and the senate government operations and elections committee, or successor committees, on the incidents covered by this act that involve state agencies.

(2) On December 1, 2011, and every December 1st thereafter, each local government risk pool or local government risk management division, or the equivalent in local governments, shall report to the legislative body of the local government on the incidents covered by this act that involve the local government.

(3) This section expires December 2, 2016.

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

Correct the title.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Fairley moved that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508.

#### POINT OF ORDER

Senator Brandland: "Thank you Mr. President. I would move that Senate Rule requires that titles of bills fit their subject matter. I believe this title is improper under Rule 25 and I have some arguments to offer. I can read them if you like or I could present them."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Brandland, you could just present them to us if you like."

Senator Gordon spoke against the point of order.

#### MOTION

On motion of Senator Eide, further consideration of Second Engrossed Substitute Senate Bill No. 6508 was deferred and the bill held its place on the days calendar.

#### MOTION

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

#### SUPPLEMENTAL INTRODUCTION AND FIRST READING OF HOUSE BILLS

**E2SHB 2617** by House Committee on Ways & Means (originally sponsored by Representatives Driscoll, Chase, Hunt, Wallace, Williams, Maxwell, White, Kelley, Carlyle, Simpson, Seaquist and Moeller)

AN ACT Relating to eliminating boards and commissions; amending RCW 43.03.027, 43.03.028, 34.12.100, 42.17.370, 43.03.040, 43.63A.760, 70.47.040, 41.04.033, 41.04.0331, 41.04.0332, 72.78.030, 43.101.380, 43.105.052, 82.58.020, 46.20.100, 46.82.280, 46.82.330, 46.82.420, 18.73.030, 18.73.101, 41.50.088, 41.50.770, 41.50.780, 41.34.020, 41.34.040, 41.34.070, 41.34.130, 41.34.140, 43.33A.135, 36.70C.030, 70.112.010, 70.112.020, 43.43.930, 43.43.934, 43.43.938, 43.43.962, 43.43.963, 43.44.030, 43.44.060, 38.52.530, 49.26.120, 48.62.061, 48.62.161, 28B.76.280, 43.330.090, 2.56.031, 13.40.510, 43.105.041, 43.105.805, 43.105.820, 19.146.225, 90.56.005, 90.56.060, 43.30.820, 18.210.010, 18.210.050, 18.210.060, 70.118.110, 77.95.100, 77.95.180, 77.95.190, 70.95.030, 43.21A.520, 70.105.010, 70.105.160, 46.16.316, 46.16.715, 46.16.725, 46.16.745, 46.16.755, 46.16.775, 46.16.30901, 46.16.30903, 46.16.30905, 46.16.30907, 46.16.30909, 46.16.30911, 46.16.30913, 46.16.30914, 46.16.30916, 46.16.30918, 46.16.30920, 46.16.30922, 46.16.30924, 46.16.30926, 46.16.30928, 43.370.020, 43.370.030, 43.60A.170, 43.131.406, 43.60A.010, 70.119A.180, 90.86.030, 27.34.365, 70.94.6534, 76.04.630, 76.04.660, 15.92.070, 17.21.020, 43.15.020, 43.15.020, 46.01.325, 46.01.140, 43.03.050, 43.03.220, 43.03.230, 43.03.240, 43.03.250, and 43.03.265; reenacting and amending RCW 18.71.205, 43.21B.005, 43.105.020, and 46.16.233; adding new sections to chapter 43.215 RCW; creating new sections; recodifying RCW 43.121.170, 43.121.175, and 43.121.180; repealing RCW 70.96A.070, 43.101.310, 43.101.315, 43.101.320, 43.101.325, 43.101.330, 43.101.335, 43.101.340, 43.101.345, 43.105.055, 46.82.300, 18.73.040, 18.73.050, 41.50.086, 43.21L.005, 43.21L.010, 43.21L.020, 43.21L.030, 43.21L.040, 43.21L.050, 43.21L.060, 43.21L.070, 43.21L.080, 43.21L.090, 43.21L.100, 43.21L.110, 43.21L.120, 43.21L.130, 43.21L.140, 43.21L.900, 43.21L.901, 70.112.030, 70.112.040, 70.112.050, 43.43.932, 43.43.936, 70.105E.070, 70.105E.090, 48.62.051, 48.62.041, 28B.76.100, 10.98.200, 10.98.210, 10.98.220, 10.98.230, 10.98.240, 43.105.800, 43.105.810, 43.360.040, 19.146.280, 90.56.120, 90.56.130, 18.210.040, 18.210.070, 70.118.100, 77.95.110, 77.95.120, 70.95.040, 70.95.050, 70.95.070, 70.105.060, 46.16.705, 43.60A.180, 46.38.010, 46.38.020, 46.38.030, 46.38.040, 46.38.050, 46.38.060, 46.38.070, 46.38.080, 46.38.090, 70.119A.160, 46.39.010, 46.39.020, 17.15.040, 79.19.070, 76.04.145, 43.126.015, 43.126.025, 43.126.035, 43.126.045, 43.126.055, 43.126.065, 43.126.075, 43.126.085, 17.21.230, 17.21.240, 17.21.250, 17.21.260, 17.21.270, 70.104.080, and 46.01.320; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

**ESHB 3186** by House Committee on Finance (originally sponsored by Representatives Pettigrew, Walsh, Williams, Hunt,

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Green, Dickerson, Kagi, Goodman, Orwall, Liias, Seaquist, White and Appleton)

AN ACT Relating to imposing a tax on home and community based services to fund services for seniors and people with disabilities; amending RCW 82.16.020, 82.16.020, and 35.21.710; reenacting and amending RCW 82.16.010 and 82.16.010; adding a new section to chapter 82.16 RCW; creating a new section; providing effective dates; and providing an expiration date.

Referred to Committee on Ways & Means.

SHB 3201 by House Committee on Ways & Means (originally sponsored by Representatives Pettigrew, Linville, Sullivan and Ericks)

AN ACT Relating to fees for treatment services and outreach for children with heritable disorders; and amending RCW 70.83.023.

Referred to Committee on Ways & Means.

MOTION

On motion of Senator Eide and without objections, the rules were suspended and Engrossed Second Substitute House Bill No. 2617 was placed on the second reading calendar and Engrossed Substitute House Bill No. 3186 and Substitute House Bill No. 3201 were referred to the Committee on Ways & Means.

MOTION

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

MESSAGE FROM THE HOUSE

March 6, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment to ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, and asks the Senate for a conference thereon. The Speaker has appointed the following members as Conferees: Representatives Cody, Moeller, Hinkle, and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Keiser moved that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2876.

The President declared the question before the Senate to be motion by Senator Keiser that the Senate recede from its position on the Senate amendments to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser carried and the Senate receded from its amendments to Engrossed Substitute House Bill No. 2876 by voice vote.

MOTION

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On motion of Senator Keiser, the rules were suspended and Engrossed Substitute House Bill No. 2876 was returned to second reading for the purposes of amendment.

SECOND READING

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876, by House Committee on Health Care & Wellness (originally sponsored by Representatives Moeller, Green and Morrell)

Concerning pain management.

The measure was read the second time.

MOTION

Senator Keiser moved that the following striking amendment by Senator Keiser 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 18.22 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-922-510 through 246-922-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a podiatric physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a podiatric physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of podiatric physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 2.** A new section is added to chapter 18.32 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a dentist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a dentist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of dentists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 3.** A new section is added to chapter 18.57 RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-853-510 through 246-853-540.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician and surgeon first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician and surgeon from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physicians and surgeons in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 4.** A new section is added to chapter 18.57A RCW to read as follows:

(1) By June 30, 2011, the board shall repeal its rules on pain management, WAC 246-854-120 through 246-854-150.

(2) By June 30, 2011, the board shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an osteopathic physician's assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an osteopathic physician's assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The board shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest association of osteopathic physician's assistants in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 5.** A new section is added to chapter 18.71 RCW to read as follows:

(1) By June 30, 2011, the commission shall repeal its rules on pain management, WAC 246-919-800 through 246-919-830.

(2) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:



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(A) A dosage amount that must not be exceeded unless a physician first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(3) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physicians in the state.

(4) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 6.** A new section is added to chapter 18.71A RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless a physician assistant first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt a physician assistant from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional association of physician assistants in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 7.** A new section is added to chapter 18.79 RCW to read as follows:

(1) By June 30, 2011, the commission shall adopt new rules on chronic, noncancer pain management that contain the following elements:

(a)(i) Dosing criteria, including:

(A) A dosage amount that must not be exceeded unless an advanced registered nurse practitioner or certified registered nurse anesthetist first consults with a practitioner specializing in pain management; and

(B) Exigent or special circumstances under which the dosage amount may be exceeded without consultation with a practitioner specializing in pain management.

(ii) The rules regarding consultation with a practitioner specializing in pain management must, to the extent practicable, take into account:

(A) Circumstances under which repeated consultations would not be necessary or appropriate for a patient undergoing a stable, ongoing course of treatment for pain management;

(B) Minimum training and experience that is sufficient to exempt an advanced registered nurse practitioner or certified registered nurse anesthetist from the specialty consultation requirement;

(C) Methods for enhancing the availability of consultations;

(D) Allowing the efficient use of resources; and

(E) Minimizing the burden on practitioners and patients.

(b) Guidance on when to seek specialty consultation and ways in which electronic specialty consultations may be sought;

(c) Guidance on tracking clinical progress by using assessment tools focusing on pain interference, physical function, and overall risk for poor outcome; and

(d) Guidance on tracking the use of opioids, particularly in the emergency department.

(2) The commission shall consult with the agency medical directors' group, the department of health, the University of Washington, and the largest professional associations for advanced registered nurse practitioners and certified registered nurse anesthetists in the state.

(3) The rules adopted under this section do not apply:

(a) To the provision of palliative, hospice, or other end-of-life care; or

(b) To the management of acute pain caused by an injury or a surgical procedure.

**NEW SECTION. Sec. 8.** (1) The boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall work collaboratively to ensure that the rules are as uniform as practicable.

(2) On January 11, 2011, each of the boards and commissions required to adopt rules on pain management under sections 1 through 7 of this act shall submit the proposed rules required by this act to the appropriate committees of the legislature."

Senators Keiser, Pflug, Fairley and Parlette 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 Keiser and others to Engrossed Substitute House Bill No. 2876.

The motion by Senator Keiser 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 1 of the title, after "management;" strike the remainder of the title and insert "adding a new section to chapter 18.22 RCW; adding a new section to chapter 18.32 RCW; adding a new section to chapter 18.57 RCW; adding a new section to chapter 18.57A RCW; adding a new section to chapter 18.71 RCW; adding a new section to chapter 18.71A RCW; adding a new section to chapter 18.79 RCW; and creating a new section."

#### MOTION

On motion of Senator Keiser, the rules were suspended, Engrossed Substitute House Bill No. 2876 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 Keiser and Pflug spoke in favor of passage of the bill.

Senator Hobbs 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. 2876 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute House Bill No. 2876 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 36; Nays, 12; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Brown, Carrell, Delvin, Eide, Franklin, Fraser, Gordon, Hargrove, Haugen, Hewitt, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, King, Kline, Kohl-Welles, McAuliffe, McDermott, Morton, Murray, Parlette, Pflug, Prentice, Pridemore, Roach, Rockefeller, Schoesler, Stevens, Swecker, Tom and Zarelli

Voting nay: Senators Berkey, Fairley, Hatfield, Hobbs, Holmquist, Honeyford, Marr, Oemig, Ranker, Regala, Sheldon and Shin

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE HOUSE BILL NO. 2876 as amended by the Senate, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 10:44 a.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### AFTERNOON SESSION

The Senate was called to order at 1:40 p.m. by President Owen.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House has passed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2617,

ENGROSSED SUBSTITUTE HOUSE BILL 3186,

SUBSTITUTE HOUSE BILL 3201.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

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

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Carrell moved that Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt, as a member of the Board of Trustees, Pierce Community College District No. 11, be confirmed.

Senator Carrell spoke in favor of the motion.

#### APPOINTMENT OF JAQUELINE B. ROSENBLATT

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt as a member of the Board of Trustees, Pierce Community College District No. 11.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt as a member of the Board of Trustees, Pierce Community College District No. 11 and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 1; Excused, 1.

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

Absent: Senator Fraser

Excused: Senator McCaslin

Gubernatorial Appointment No. 9270, Jaqueline B. Rosenblatt, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Pierce Community College District No. 11.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Brown moved that Gubernatorial Appointment No. 9265, Tom Karier, as a member of the Northwest Power and Conservation Council, be confirmed.

Senator Brown spoke in favor of the motion.

#### MOTION

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On motion of Senator Marr, Senator Fraser was excused.

MOTION

On motion of Senator Delvin, Senator Pflug was excused.

APPOINTMENT OF TOM KARIER

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9265, Tom Karier as a member of the Northwest Power and Conservation Council.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9265, Tom Karier as a member of the Northwest Power and Conservation Council and the appointment was confirmed by the following vote: Yeas, 47; Nays, 0; Absent, 0; Excused, 2.

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

Excused: Senators Fraser and McCaslin

Gubernatorial Appointment No. 9265, Tom Karier, having received the constitutional majority was declared confirmed as a member of the Northwest Power and Conservation Council.

SECOND READING

SECOND SUBSTITUTE HOUSE BILL NO. 2436, by House Committee on General Government Appropriations (originally sponsored by Representatives Moeller, Green, Clibborn, Pedersen, Carlyle, Morrell and Jacks)

Concerning vehicle license fraud.

The measure was read the second time.

MOTION

Senator Haugen moved that the following committee striking amendment by the Committee on Transportation be adopted:

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 46.16.010 and 2007 c 242 s 2 are each amended to read as follows:

(1) It is unlawful for a person to operate any vehicle over and along a public highway of this state without first having obtained and having in full force and effect a current and proper vehicle license and display vehicle license number plates (~~therefor~~) as provided by this chapter (~~provided~~).

(2) Failure to make initial registration before operation on the highways of this state is a traffic infraction, and any person committing this infraction (~~shall~~) must pay a (~~penalty~~) fine of five hundred twenty-nine dollars, subject to applicable assessments, no part of which may be suspended or deferred. This fine is in addition to any delinquent taxes and fees that must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion. The five hundred twenty-nine dollar fine must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250.

(3) Failure to renew an expired registration before operation on the highways of this state is a traffic infraction.

(4) The licensing of a vehicle in another state by a resident of this state, as defined in RCW 46.16.028, evading the payment of any tax or license fee imposed in connection with registration, is a gross misdemeanor punishable, in lieu of the fine in subsection (2) of this section, as follows:

(a) For a first offense(~~is~~):

~~(i) Up to one year in the county jail (~~and~~);~~

~~(ii) Payment of a fine of five hundred twenty-nine dollars (~~plus twice the amount of delinquent taxes and fees~~) plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;~~

~~(iii) A fine of one thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred; and~~

~~(iv) The delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred;~~

(b) For a second or subsequent offense(~~is~~):

~~(i) Up to one year in the county jail (~~and~~);~~

~~(ii) Payment of a fine of five hundred twenty-nine dollars (~~plus four times the amount of delinquent taxes and fees~~) plus any applicable assessments, no part of which may be suspended or deferred. The fine of five hundred twenty-nine dollars must be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250;~~

~~(iii) A fine of five thousand dollars to be deposited into the vehicle licensing fraud account created in the state treasury in RCW 46.68.250, no part of which may be suspended or deferred;~~

~~((c) For fines levied under (b) of this subsection, an amount equal to the avoided taxes and fees owed will be deposited in the vehicle licensing fraud account created in the state treasury;~~

~~(d) The avoided taxes and fees shall be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion)) and~~

~~(iv) The amount of delinquent taxes and fees, which must be deposited and distributed in the same manner as if the taxes and fees were properly paid in a timely fashion, no part of which may be suspended or deferred.~~

(5) These provisions (~~shall~~) do not apply to the following vehicles:

(a) Motorized foot scooters;

(b) Electric-assisted bicycles;

(c) Off-road vehicles operating on nonhighway roads under RCW 46.09.115;

(d) Farm vehicles if operated within a radius of fifteen miles of the farm where principally used or garaged, farm tractors and farm implements including trailers designed as cook or bunk houses used exclusively for animal herding temporarily operating or drawn upon the public highways, and trailers used exclusively to transport farm implements from one farm to another during the daylight hours or at night when such equipment has lights that comply with the law;

(e) Spray or fertilizer applicator rigs designed and used exclusively for spraying or fertilization in the conduct of agricultural operations and not primarily for the purpose of transportation, and nurse rigs or equipment auxiliary to the use of and designed or modified for the fueling, repairing, or loading of spray and fertilizer applicator rigs and not used, designed, or modified primarily for the purpose of transportation;

(f) Fork lifts operated during daylight hours on public highways adjacent to and within five hundred feet of the warehouses which

they serve(~~(= PROVIDED FURTHER, That)~~). However, these provisions (~~(shall)~~) do not apply to vehicles used by the state parks and recreation commission exclusively for park maintenance and operations upon public highways within state parks;

(g) "Trams" used for transporting persons to and from facilities related to the horse racing industry as regulated in chapter 67.16 RCW, as long as the public right-of-way routes over which the trams operate are not more than one mile from end to end, the public rights-of-way over which the tram operates have an average daily traffic of not more than 15,000 vehicles per day, and the activity is in conformity with federal law. The operator must be a licensed driver and at least eighteen years old. For the purposes of this section, "tram" also means a vehicle, or combination of vehicles linked together with a single mode of propulsion, used to transport persons from one location to another;

(h)(i) "Special highway construction equipment" defined as follows: Any vehicle which is designed and used primarily for grading of highways, paving of highways, earth moving, and other construction work on highways and which is not designed or used primarily for the transportation of persons or property on a public highway and which is only incidentally operated or moved over the highway. It includes, but is not limited to, road construction and maintenance machinery so designed and used such as portable air compressors, air drills, asphalt spreaders, bituminous mixers, bucket loaders, track laying tractors, ditchers, leveling graders, finishing machines, motor graders, paving mixers, road rollers, scarifiers, earth moving scrapers and carryalls, lighting plants, welders, pumps, power shovels and draglines, self-propelled and tractor-drawn earth moving equipment and machinery, including dump trucks and tractor-dump trailer combinations which (~~(either~~ ~~(+))~~);

~~(A) Are in excess of the legal width((:)); or ((iii) which)~~  
~~(B) Because of their length, height, or unladen weight, may not be moved on a public highway without the permit specified in RCW 46.44.090 and which are not operated laden except within the boundaries of the project limits as defined by the contract, and other similar types of construction equipment((:)); or ((iii) which)~~

~~(C) Are driven or moved upon a public highway only for the purpose of crossing such highway from one property to another, provided such movement does not exceed five hundred feet and the vehicle is equipped with wheels or pads which will not damage the roadway surface.~~

~~((Exclusions:))~~

~~(ii) "Special highway construction equipment" does not include ((any of the following:)) dump trucks originally designed to comply with the legal size and weight provisions of this code notwithstanding any subsequent modification which would require a permit, as specified in RCW 46.44.090, to operate such vehicles on a public highway, including trailers, truck-mounted transit mixers, cranes and shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.~~

(6) The following vehicles, whether operated solo or in combination, are exempt from license registration and displaying license plates as required by this chapter:

(a) A converter gear used to convert a semitrailer into a trailer or a two-axle truck or tractor into a three or more axle truck or tractor or used in any other manner to increase the number of axles of a vehicle. Converter gear includes an auxiliary axle, booster axle, dolly, and jeep axle.

(b) A tow dolly that is used for towing a motor vehicle behind another motor vehicle. The front or rear wheels of the towed vehicle are secured to and rest on the tow dolly that is attached to the towing vehicle by a tow bar.

(c) An off-road vehicle operated on a street, road, or highway as authorized under RCW 46.09.180.

(7)(a) A motor vehicle subject to initial or renewal registration under this section shall not be registered to a natural person unless the person at time of application:

- (i) Presents an unexpired Washington state driver's license; or
- (ii) Certifies that he or she is:

(A) A Washington resident who does not operate a motor vehicle on public roads; or

(B) Exempt from the requirement to obtain a Washington state driver's license under RCW 46.20.025.

(b) For shared or joint ownership, the department will set up procedures to verify that all owners meet the requirements of this subsection.

(c) A person falsifying residency is guilty of a gross misdemeanor punishable only by a fine of five hundred twenty-nine dollars.

(d) The department may adopt rules necessary to implement this subsection, including rules under which a natural person applying for registration may be exempt from the requirements of this subsection where the person provides evidence satisfactory to the department that he or she has a valid and compelling reason for not being able to meet the requirements of this subsection.

(8) A vehicle with an expired registration of more than forty-five days parked on a public street may be impounded by a police officer under RCW 46.55.113(2).

**NEW SECTION. Sec. 2.** The sum of seventy-five thousand dollars per fiscal year is appropriated to the department of revenue or as much thereof as may be necessary and the sum of two hundred fifty thousand dollars is appropriated to the Washington state patrol per fiscal year, or as much thereof as may be necessary, from the vehicle license fraud account for the purposes of vehicle license fraud enforcement and collections by the Washington state patrol and the department of revenue.

**NEW SECTION. Sec. 3.** This act takes effect July 1, 2010."

Senator Haugen 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 Transportation to Second Substitute House Bill No. 2436.

The motion by Senator Haugen 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 "fraud;" strike the remainder of the title and insert "amending RCW 46.16.010; prescribing penalties; making an appropriation; and providing an effective date."

#### MOTION

On motion of Senator Haugen, the rules were suspended, Second Substitute House Bill No. 2436 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 Haugen 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. 2436 as amended by the Senate.

#### ROLL CALL

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The Secretary called the roll on the final passage of Second Substitute House Bill No. 2436 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SECOND SUBSTITUTE HOUSE BILL NO. 2436 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. 2893, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Carlyle, Hunter, Maxwell, Nelson, Hunt, Appleton, Simpson, Dickerson, White, Pedersen, Green, Sells, Eddy, Springer, Williams, Orwall, Goodman, Conway, Kenney, Rolfes, Ericks, Ormsby, Kagi, Roberts and Jacks)

Changing school levy provisions.

The measure was read the second time.

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 7, line 33, strike "twenty-eight" and insert "twenty-six"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 7, line 33 to Substitute House Bill No. 2893.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

MOTION

Senator Swecker moved that the following amendment by Senator Swecker and others be adopted.

On page 10, after line 22, insert the following:

"Sec. 5. RCW 28A.520.020 and 1991 sp.s. c 13 s 113 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving account. The state treasurer, who shall be custodian of the revolving account, shall deposit into the revolving account the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as

authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) ~~((#))~~The amount received by any public school district pursuant to subsection (2) of this section ~~((is less than))~~ shall not reduce the basic education allocation to which the district would otherwise be entitled ~~((, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled)).~~

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended."

Renumber remaining sections and correct internal references accordingly.

On page 1, line 2 of the title, after "84.52.0531," insert "28A.520.020,"

Senators Swecker and Hargrove spoke in favor of adoption of the amendment.

Senator Tom spoke against adoption of the 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 Swecker and others on page 10, after line 22 to Substitute House Bill No. 2893.

ROLL CALL

The Secretary called the roll on the adoption of the amendment by Senator Swecker and the amendment was not adopted by the following vote: Yeas, 20; Nays, 28; Absent, 0; Excused, 1.

Voting yea: Senators Becker, Benton, Brandland, Carrell, Delvin, Hargrove, Hatfield, Haugen, Hewitt, Holmquist, Honeyford, King, Morton, Parlette, Pflug, Roach, Schoesler, Sheldon, Stevens and Swecker

Voting nay: Senators Berkey, Brown, Eide, Fairley, Franklin, Fraser, Gordon, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kline, Kohl-Welles, Marr, McAuliffe, McDermott, Murray, Oemig, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin, Tom and Zarelli

Excused: Senator McCaslin

MOTION

Senator Honeyford moved that the following amendment by Senator Honeyford be adopted:

On page 10, line 31, strike "fourteen" and insert "sixteen"

On page 10, line 32, strike "fourteen" and insert "sixteen"

On page 11, line 1, strike "fourteen" and insert "sixteen"

On page 11, line 5, strike "fourteen" and insert "sixteen"

On page 11, line 6, strike "fourteen" and insert "sixteen"

On page 11, line 7, strike "fourteen" and insert "sixteen"  
 On page 11, line 12, strike "fourteen" and insert "sixteen"  
 On page 11, line 13, strike "fourteen" and insert "sixteen"  
 On page 11, line 25, strike "fourteen" and insert "sixteen"  
 On page 11, line 26, strike "fourteen" and insert "sixteen"  
 On page 11, line 28, strike "fourteen" and insert "sixteen"  
 On page 11, line 31, strike "fourteen" and insert "sixteen"  
 On page 11, line 32, strike "fourteen" and insert "sixteen"  
 On page 11, line 33, strike "fourteen" and insert "sixteen"  
 On page 11, line 35, strike "fourteen" and insert "sixteen"

Senator Honeyford spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the amendment.

The President declared the question before the Senate to be the adoption of the amendment by Senator Honeyford on page 10, line 31 to Substitute House Bill No. 2893.

The motion by Senator Honeyford failed and the amendment was not adopted by voice vote.

#### MOTION

Senator Pflug moved that the following amendment by Senator Pflug and others be adopted:

On page 9, after line 25, insert the following:

**"NEW SECTION. Sec. 4.** A new section is added to chapter 84.52 RCW to read as follows:

A school district may not seek voter approval for a levy that exceeds by more than five percent the levy authority provided under RCW 84.52.0531 as of the date a resolution for a special election is presented to the county auditor under RCW 29A.04.330(3)."

Renumber the sections consecutively and correct any internal references accordingly.

On page 1, line 4 of the title, after "28A.500.030", insert "adding a new section to chapter 84.52 RCW"

Senators Pflug and Schoesler spoke in favor of adoption of the amendment.

Senator Oemig spoke against adoption of the amendment.

#### POINT OF ORDER

Senator Pflug: "Mr. President, I object to the impugning of the motive by saying that the intent of my amendment was to step on the ability of my districts."

#### REPLY BY THE PRESIDENT

President Owen: "Senator Oemig, it is improper for you to refer to a member's intent."

The President declared the question before the Senate to be the adoption of the amendment by Senator Pflug and others on page 9, after line 25 to Substitute House Bill No. 2893.

The motion by Senator Pflug failed and the amendment was not adopted by a rising vote.

#### INTRODUCTION OF SPECIAL GUESTS

The President introduced the Mayor of the city of Galway, Ireland, The Honorable Declan McDonnell, wife Mary McDonnell; Deputy City Manager Joe O'Neil, wife Kay O'Neil; and Honorary Consul of Ireland in Seattle John Keane who were seated in the gallery.

#### MOTION

Senator Pflug moved that the following striking amendment by Senator Pflug be adopted.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The legislature recognizes that since 2004, school districts have been permitted to restore full funding for Initiative 728 and Initiative 732 in the levy base. The intent of the legislature is to extend the expiration date for this provision and also to restore in the base funding received for staffing enhancements in grades kindergarten through four.

**Sec. 2.** 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;

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(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)(a) For levy collections in calendar years 2005 through ~~(2011)~~ 2017, 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:

~~((b)) (i)(A) For levy collections in calendar year 2010, 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)) 28A.505.220;~~

(B) For levy collections in calendar years 2011 through 2017, the difference between the allocation rate the district would have received in the prior school year using the Initiative 728 base and the allocation rate the district received in the prior school year pursuant to RCW 28A.505.220 multiplied by the full-time equivalent student enrollment used to calculate the Initiative 728 allocation for the prior school year; and

~~((b)) (ii) 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)).~~

(b) For levy collections in calendar years 2011 through 2017, in addition to the allocations included under subsections (3)(a) through (c) and (4)(a) of this section, a district's levy base shall also include the difference between an allocation of fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four enrolled in the prior school year and the allocation of certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four that the district actually received in the prior school year, except that the levy base for a school district whose allocation in the 2009-10 school year was less than fifty-three and two-tenths certificated instructional staff units per thousand full-time equivalent students in grades kindergarten through four shall include the difference between the allocation the district actually received in the 2009-10 school year and the allocation the district actually received in the prior school year.

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

~~((9)) (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, 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 state allocation for annual salary cost-of-living increases for district employees in the state-funded salary base as it would have been calculated under chapter 4, Laws of 2001, if each annual cost-of-living increase allocation had been provided in previous years and in each subsequent year.

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

~~((4)) (9) 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.~~

~~((4)) (10) 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.~~

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

This act expires January 1, ~~(2012)~~ 2018.

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

Section 908 of this act expires January 1, ~~(2012)~~ 2018.

**NEW SECTION. Sec. 5.** Section 2 of this act expires January 1, 2018."

On page 1, line 1 of the title, after "levies;" strike the remainder of the title and insert the following: "amending RCW 84.52.0531; amending 2006 c 119 s 3 (uncodified); amending 2009 c 4 s 909 (uncodified); creating a new section; and providing an expiration date."

Senators Pflug and King spoke in favor of adoption of the amendment.

Senator McAuliffe spoke against adoption of the 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 striking amendment by Senator Pflug to Substitute House Bill No. 2893.

#### ROLL CALL

The Secretary called the roll on the adoption of the striking amendment by Senator Pflug and the amendment was not adopted by the following vote: Yeas, 17; Nays, 31; Absent, 0; Excused, 1.

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

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

Excused: Senator McCaslin

#### POINT OF INQUIRY

Senator McAuliffe: "Would Senator Oemig yield to a question? Senator Oemig, if the voters of a school district passed the maintenance and operation levy in February 2010, can the school board place on the ballot request for a supplemental levy for the fall of 2010 election?"

Senator Oemig: "Thank you, Mr. President. Yes, and I might read from the bill? To answer the question, yes indeed. I think this bill specifically allows that in the language in section four, subsequently enacted increases affecting the districts levy base or maximum levy percentage may be passed that would be consistent in any special election or in the upcoming general election."

#### POINT OF INQUIRY

Senator Franklin: "Would Senator McAuliffe yield to a question? Thank you Senator. As you know we have been searching for quite a long time one equator solution to this issue of levy equalization and wondering if we will ever get there? This of course was a major sticking point of the former Senator Al Bauer. In short, my question will be, will we ever resolve the levy equalization question?"

Senator McAuliffe: "Thank you Senator. We are very serious about adjusting this issue. The education reform bill that we passed last session created a levy work group made up of OFM, SPI the education stake holders and eight legislators that we just added to that in a bill yesterday. We are very serious about dealing with levies and levy equalizations and the inequities. The report is due back to us on December of 2011 with a brief report January 2011. So, we will, next year, be able to address this issue as we come back into session. Maybe just a few adjustments and then finally after their final report, they can help us to deal with the inequities."

#### MOTION

On motion of Senator McAuliffe, the rules were suspended, Substitute House Bill No. 2893 was advanced to third reading, the

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

Senators McAuliffe, Tom, Oemig and Marr spoke in favor of passage of the bill.

Senators King, Honeyford, Pflug, Schoesler and Parlette spoke against passage of the bill.

Senator Jacobsen spoke on final passage.

#### MOTION

Senator Eide demanded that the previous question be put.

The President declared that at least two additional senators joined the demand and the demand was sustained.

The President declared the question before the Senate to be the motion of Senator Eide, "Shall the main question be now put?"

The motion by Senator Eide that the previous question be put carried by voice vote.

The President declared the question before the Senate to be the final passage of Substitute House Bill No. 2893.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2893 and the bill passed the Senate by the following vote: Yeas, 29; Nays, 19; Absent, 0; Excused, 1.

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

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

Excused: Senator McCaslin

SUBSTITUTE HOUSE BILL NO. 2893, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

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

#### RULING BY THE PRESIDENT

President Owen: "In ruling on the Point of Order raised by Senator Marr as to whether the house amendment fits within the scope and object of Engrossed Substitute Senate Bill 6774, the President finds and rules as follows:

In general, a bill with a single limited subject can be challenging to amend without raising issues of scope and object. The underlying bill as it left the Senate contained one direct point, regarding an alternative governance structure for transportation benefit districts that include areas from more than one jurisdiction. Specifically, it provided that a metropolitan planning organization with boundaries identical to a transportation benefit district may act as the governing body of the district. The house amendment goes further, and would expand the power to create a transportation benefit district. This power is currently limited to cities and counties; under the House amendment, by contrast, the power would no longer be so limited. The power to create a transportation benefit district – as



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the House amendment provides – is distinct from the power of governing one.

For these reasons, the President finds that the house amendment is beyond the scope and object of the underlying bill, and Senator Marr’s point is well-taken.”

#### MOTION

Senator Marr moved that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

The President declared the question before the Senate to be motion by Senator Marr that the Senate refuse to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and ask the House to recede therefrom.

The motion by Senator Marr carried and the Senate refused to concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6774 and asked the House to recede therefrom by voice vote.

#### RULING BY THE PRESIDENT

President Owen: “In ruling upon the point of order raised by Senator Brandland as to whether the House amendment to Second Engrossed Substitute Senate Bill 6508 violates Senate Rule 25 by including a subject not reflected in the bill’s title, the President finds and rules as follows:

This is the second title challenge to this particular bill this Session. In the previous ruling issued on March 9th, the President noted that the bill as passed by the Senate defined the rights and liabilities of various parties with respect to the wrongful death of an adult child. The Senate version included a joint and several liability provision to limit claims against the state and local governments. This was in keeping with the title of the bill, which provides:

AN ACT Relating to wrongful death or survival actions by changing the class of persons entitled to recoveries and by limiting the liability of state and local agencies or political subdivisions in those recoveries...

The House amendment removes the joint and several liability limitation altogether, but replaces it with new language which states that such liability:

[I]s limited to situations where the governmental entity’s acts or omissions are negligent and are a proximate cause of the death of the claimant, and where the governmental entity is not otherwise immune or where the governmental entity’s liability is not otherwise limited by statute or case law.

Senator Brandland argues that this language does not, in fact, limit liability, but instead does nothing more than restate the present case law standard. Whatever the merits of this argument may be, it is not for the President to make such a legal determination. Perhaps more importantly, there are many possible ways to address the question of the limits of liability, and it is not appropriate for the President to substitute his judgment for that of the body on what is clearly a policy choice. Rather, the President’s role is simply to determine whether this particular policy choice is correctly reflected in the title of the bill.

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Because this House amendment—like the underlying bill as passed by the Senate—assigns and limits the rights and liabilities of various private and governmental parties, it fits within the title of the bill.

For these reasons, the President finds that the House amendment is properly before this body for concurrence, and Senator Brandland’s point is not well-taken.”

#### REMARKS BY THE PRESIDENT

President Owen: “Now, further remarks of the President. Because of all the controversy and confusion surrounding this bill the President believes that it is appropriate to offer some additional explanation... appreciate the body’s patience as he offers these comments.

As a practice, both sides of this argument have handed in written material to assist the President in understanding the issue and their arguments. Senator Brandland, who will be missed, handed in a one page explanation that was very clear and written in plain English. Senator Gordon also submitted an argument—a three page, single spaced legal treatise. While there is simply not enough time to read his entire brief and still sine die before midnight tonight the President would like to thank the good Senator from the Forty-first District for his restraint and not including any encrustation-covered hands within the argument. For the body’s own edification however, the President will share that this brief included an English case from 1865 as well as a, this is true, as well a story about a lion that get’s loose and eats people. The terms non-germane, expurgated, congruent, chattels, surplusage, circumscribed and tortuous are used throughout this brief. The President, lacking the energy to go and check a legal dictionary, will assume that they are used correctly. There are also references to nuclear power, cyanide gas, crop dusting and vessel or admiralty law, I am not lying. To perhaps provide some prospective advice to Senator Gordon, the President would like to inform the body that, should a crop duster drop a lion onto a nuclear-powered ship and should cyanide gas be used to contain that lion before it can eat anyone, rest assured that an emergency clause on a bill to address that problem would likely be well received and ruled within the scope of the bill.”

The Senate resumed consideration of Second Engrossed Substitute Senate Bill No. 6508 which had been deferred earlier in the day.

Senators Hargrove, Carrell, Honeyford and Pflug spoke against the motion.

Senators Gordon and Kline spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Fairley that the Senate concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508.

The motion by Senator Fairley failed and the Senate did not concur in the House amendment(s) to Second Engrossed Substitute Senate Bill No. 6508 by voice vote.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SENATE BILL NO. 6610. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6610.E AMH GREE H5687.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** A new section is added to chapter 10.77 RCW to read as follows:

(1) The secretary shall establish an independent public safety review panel for the purpose of advising the secretary and the courts with respect to persons who have been found not guilty by reason of insanity. The panel shall provide advice regarding all recommendations: (a) For a change in commitment status; (b) to allow furloughs or temporary leaves accompanied by staff; or (c) to permit movement about the grounds of the treatment facility, with or without the accompaniment of staff.

(2) The members of the public safety review panel shall be appointed by the governor for a renewable term of three years and shall include the following:

- (a) A psychiatrist;
- (b) A licensed clinical psychologist;
- (c) A representative of the department of corrections;
- (d) A prosecutor or a representative of a prosecutor's association;
- (e) A representative of law enforcement or a law enforcement association;
- (f) A consumer and family advocate representative; and
- (g) A public defender or a representative of a defender's association.

(3) Thirty days prior to issuing a recommendation for conditional release under RCW 10.77.150 or forty-five days prior to issuing a recommendation for release under RCW 10.77.200, the secretary shall submit its recommendation with the committed person's application and the department's risk assessment to the public safety review panel. The public safety review panel shall complete an independent assessment of the public safety risk entailed by the secretary's proposed conditional release recommendation or release recommendation and provide this assessment in writing to the secretary. The public safety review panel may, within funds appropriated for this purpose, request additional evaluations of the committed person. The public safety review panel may indicate whether it is in agreement with the secretary's recommendation, or whether it would issue a different recommendation. The secretary shall provide the panel's assessment when it is received along with any supporting documentation, including all previous reports of evaluations of the committed person in the person's hospital record, to the court, prosecutor in the county that ordered the person's commitment, and counsel for the committed person.

(4) The secretary shall notify the public safety review panel at appropriate intervals concerning any changes in the commitment or custody status of persons found not guilty by reason of insanity. The panel shall have access, upon request, to a committed person's complete hospital record.

(5) The department shall provide administrative and financial support to the public safety review panel. The department, in consultation with the public safety review panel, may adopt rules to implement this section.

(6) By December 1, 2014, the public safety review panel shall report to the appropriate legislative committees the following:

(a) Whether the public safety review panel has observed a change in statewide consistency of evaluations and decisions concerning changes in the commitment status of persons found not guilty by reason of insanity;

(b) Whether the public safety review panel should be given the authority to make release decisions and monitor release conditions;

(c) Any other issues the public safety review panel deems relevant.

**NEW SECTION. Sec. 2.** A new section is added to chapter 10.77 RCW to read as follows:

(1) If the secretary determines in writing that a person committed to the custody of the secretary for treatment as criminally insane presents an unreasonable safety risk which, based on behavior, clinical history, and facility security is not manageable in a state hospital setting, the secretary may place the person in any secure facility operated by the secretary or the secretary of the department of corrections. Any person affected by this provision shall receive appropriate mental health treatment governed by a formalized treatment plan targeted at mental health rehabilitation needs and shall be afforded his or her rights under RCW 10.77.140, 10.77.150, and 10.77.200. The secretary of the department of social and health services shall retain legal custody of any person placed under this section and review any placement outside of a department mental health hospital every three months, or sooner if warranted by the person's mental health status, to determine if the placement remains appropriate.

(2) Beginning December 1, 2010, and every six months thereafter, the secretary shall report to the governor and the appropriate committees of the legislature regarding the use of the authority under this section to transfer persons to a secure facility. The report shall include information related to the number of persons who have been placed in a secure facility operated by the secretary or the secretary of the department of corrections, and the length of time that each such person has been in the secure facility.

(3) This section expires June 30, 2015.

**NEW SECTION. Sec. 3.** (1) The Washington state institute for public policy shall, in collaboration with the department of social and health services and other applicable entities, undertake a search for validated mental health assessment tools in each of the following areas:

(a) An assessment tool or combination of tools to be used by individuals performing court-ordered competency assessments and level of risk assessments of defendants pursuant to chapter 10.77 RCW; and

(b) An assessment tool or combination of tools to be used by individuals developing recommendations to courts as to the appropriateness of conditional release from inpatient treatment of criminally insane patients pursuant to chapter 10.77 RCW.

(2) This section expires June 30, 2011.

**Sec. 4.** RCW 10.77.120 and 2000 c 94 s 15 are each amended to read as follows:

(1) The secretary shall ~~((forthwith))~~ provide adequate care and individualized treatment ~~to persons found criminally insane~~ at one or several of the state institutions or facilities under ~~((his or her))~~ the direction and control ~~((wherein persons committed as criminally insane may be confined. Such persons shall be under the custody and control of the secretary to the same extent as are other persons who are committed to the secretary's custody, but such provision shall be made for their control, care, and treatment as is proper in view of their condition))~~ of the secretary. In order that the secretary may adequately determine the nature of the mental illness or developmental disability of the person committed ~~((to him or her))~~ as criminally insane, ~~((and in order for the secretary to place such individuals in a proper facility,))~~ all persons who are committed to the secretary as criminally insane shall be promptly examined by qualified personnel in ~~((such a manner as))~~ order to provide a proper evaluation and diagnosis of such individual. The examinations of all ~~((developmentally disabled))~~ persons with developmental disabilities committed under this chapter shall be performed by developmental disabilities professionals. Any person so committed shall not be released from the control of the secretary ~~((save upon the))~~ except by order of a court of competent jurisdiction made after a hearing and judgment of release.

(2) Whenever there is a hearing which the committed person is entitled to attend, the secretary shall send ~~((him or her))~~ the person in the custody of one or more department employees to the county

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~~((where))~~ in which the hearing is to be held at the time the case is called for trial. During the time the person is absent from the facility, ~~((he or she shall))~~ the person may be confined in a facility designated by and arranged for by the department, ~~((and))~~ but shall at all times be deemed to be in the custody of the department employee and provided necessary treatment. If the decision of the hearing remits the person to custody, the department employee shall ~~((forthwith))~~ return the person to such institution or facility designated by the secretary. If the state appeals an order of release, such appeal shall operate as a stay, and the person shall remain in custody ~~((shall so remain))~~ and be ~~((forthwith))~~ returned to the institution or facility designated by the secretary until a final decision has been rendered in the cause.

**Sec. 5.** RCW 10.77.150 and 1998 c 297 s 41 are each amended to read as follows:

(1) Persons examined pursuant to RCW 10.77.140 may make application to the secretary for conditional release. The secretary shall, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, forward to the court of the county which ordered the person's commitment the person's application for conditional release as well as the secretary's recommendations concerning the application and any proposed terms and conditions upon which the secretary reasonably believes the person can be conditionally released. Conditional release may also contemplate partial release for work, training, or educational purposes.

(2) In instances in which persons examined pursuant to RCW 10.77.140 have not made application to the secretary for conditional release, but the secretary, after considering the reports of experts or professional persons conducting the examination pursuant to RCW 10.77.140, reasonably believes the person may be conditionally released, the secretary may submit a recommendation for release to the court of the county that ordered the person's commitment. The secretary's recommendation must include any proposed terms and conditions upon which the secretary reasonably believes the person may be conditionally released. Conditional release may also include partial release for work, training, or educational purposes. Notice of the secretary's recommendation under this subsection must be provided to the person for whom the secretary has made the recommendation for release and to his or her attorney.

(3)(a) The court of the county which ordered the person's commitment, upon receipt of an application or recommendation for conditional release with the secretary's recommendation for conditional release terms and conditions, shall within thirty days schedule a hearing. The court may schedule a hearing on applications recommended for disapproval by the secretary.

(b) The prosecuting attorney shall represent the state at such hearings and shall have the right to have the patient examined by an expert or professional person of the prosecuting attorney's choice. If the committed person is indigent, and he or she so requests, the court shall appoint a qualified expert or professional person to examine the person on his or her behalf.

(c) The issue to be determined at such a hearing is whether or not the person may be released conditionally without substantial danger to other persons, or substantial likelihood of committing criminal acts jeopardizing public safety or security.

(d) The court, after the hearing, shall rule on the secretary's recommendations, and if it disapproves of conditional release, may do so only on the basis of substantial evidence. The court may modify the suggested terms and conditions on which the person is to be conditionally released. Pursuant to the determination of the court after hearing, the committed person shall thereupon be released on such conditions as the court determines to be necessary, or shall be remitted to the custody of the secretary. If the order of conditional release includes a requirement for the committed person

to report to a community corrections officer, the order shall also specify that the conditionally released person shall be under the supervision of the secretary of corrections or such person as the secretary of corrections may designate and shall follow explicitly the instructions of the secretary of corrections including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer prior to making any change in the offender's address or employment. If the order of conditional release includes a requirement for the committed person to report to a community corrections officer, the community corrections officer shall notify the secretary or the secretary's designee, if the person is not in compliance with the court-ordered conditions of release.

~~((3))~~ (4) If the court determines that receiving regular or periodic medication or other medical treatment shall be a condition of the committed person's release, then the court shall require him or her to report to a physician or other medical or mental health practitioner for the medication or treatment. In addition to submitting any report required by RCW 10.77.160, the physician or other medical or mental health practitioner shall immediately upon the released person's failure to appear for the medication or treatment or upon a change in mental health condition that renders the patient a potential risk to the public report ~~((the failure))~~ to the court, to the prosecuting attorney of the county in which the released person was committed, to the secretary, and to the supervising community corrections officer.

~~((4))~~ (5) Any person, whose application for conditional release has been denied, may reapply after a period of six months from the date of denial.

**Sec. 6.** RCW 10.77.160 and 1993 c 31 s 7 are each amended to read as follows:

When a conditionally released person is required by the terms of his or her conditional release to report to a physician, department of corrections community corrections officer, or medical or mental health practitioner on a regular or periodic basis, the physician, department of corrections community corrections officer, medical or mental health practitioner, or other such person shall monthly, for the first six months after release and semiannually thereafter, or as otherwise directed by the court, submit to the court, the secretary, the institution from which released, and to the prosecuting attorney of the county in which the person was committed, a report stating whether the person is adhering to the terms and conditions of his or her conditional release, and detailing any arrests or criminal charges filed and any significant change in the person's mental health condition or other circumstances.

**Sec. 7.** RCW 10.77.190 and 1998 c 297 s 43 are each amended to read as follows:

(1) Any person submitting reports pursuant to RCW 10.77.160, the secretary, or the prosecuting attorney may petition the court to, or the court on its own motion may schedule an immediate hearing for the purpose of modifying the terms of conditional release if the petitioner or the court believes the released person is failing to adhere to the terms and conditions of his or her conditional release or is in need of additional care and treatment.

(2) If the prosecuting attorney, the secretary of social and health services, the secretary of corrections, or the court, after examining the report filed with them pursuant to RCW 10.77.160, or based on other information received by them, reasonably believes that a conditionally released person is failing to adhere to the terms and conditions of his or her conditional release the court or secretary of social and health services or the secretary of corrections may order that the conditionally released person be apprehended and taken into custody ~~((until such time as a hearing can be scheduled to determine the facts and whether or not the person's conditional release should be revoked or modified))~~. The court shall be notified of the

apprehension before the close of the next judicial day (~~(of the apprehension)~~). The court shall schedule a hearing within thirty days to determine whether or not the person's conditional release should be modified or revoked. Both the prosecuting attorney and the conditionally released person shall have the right to request an immediate mental examination of the conditionally released person. If the conditionally released person is indigent, the court or secretary of social and health services or the secretary of corrections or their designees shall, upon request, assist him or her in obtaining a qualified expert or professional person to conduct the examination.

(3) If the hospital or facility designated to provide outpatient care determines that a conditionally released person presents a threat to public safety, the hospital or facility shall immediately notify the secretary of social and health services or the secretary of corrections or their designees. The secretary shall order that the conditionally released person be apprehended and taken into custody.

(4) The court, upon receiving notification of the apprehension, shall promptly schedule a hearing. The issue to be determined is whether the conditionally released person did or did not adhere to the terms and conditions of his or her release, or whether the person presents a threat to public safety. Pursuant to the determination of the court upon such hearing, the conditionally released person shall either continue to be conditionally released on the same or modified conditions or his or her conditional release shall be revoked and he or she shall be committed subject to release only in accordance with provisions of this chapter.

**Sec. 8.** RCW 10.77.200 and 2000 c 94 s 16 are each amended to read as follows:

(1) Upon application by the committed or conditionally released person, the secretary shall determine whether or not reasonable grounds exist for release. In making this determination, the secretary may consider the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case. If the secretary approves the release he or she then shall authorize the person to petition the court.

(2) In instances in which persons have not made application for release, but the secretary believes, after consideration of the reports filed under RCW 10.77.060, 10.77.110, 10.77.140, and 10.77.160, and other reports and evaluations provided by professionals familiar with the case, that reasonable grounds exist for release, the secretary may petition the court. If the secretary petitions the court for release under this subsection, notice of the petition must be provided to the person who is the subject of the petition and to his or her attorney.

(3) The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the petition for release, shall within forty-five days order a hearing. Continuance of the hearing date shall only be allowed for good cause shown. The prosecuting attorney shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of the prosecuting attorney's choice. If the petitioner is indigent, and the person so requests, the court shall appoint a qualified expert or professional person to examine him or her. If the petitioner (~~(is developmentally disabled)~~) has a developmental disability, the examination shall be performed by a developmental disabilities professional. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney. The burden of proof shall be upon the petitioner to show by a preponderance of the evidence that the petitioner no longer presents, as a result of a mental disease or defect, a substantial danger to other persons, or a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

~~((3))~~ (4) For purposes of this section, a person affected by a mental disease or defect in a state of remission is considered to have

a mental disease or defect requiring supervision when the disease may, with reasonable medical probability, occasionally become active and, when active, render the person a danger to others. Upon a finding that the petitioner has a mental disease or defect in a state of remission under this subsection, the court may deny release, or place or continue such a person on conditional release.

(5) Nothing contained in this chapter shall prohibit the patient from petitioning the court for release or conditional release from the institution in which he or she is committed. The issue to be determined on such proceeding is whether the petitioner, as a result of a mental disease or defect, is a substantial danger to other persons, or presents a substantial likelihood of committing criminal acts jeopardizing public safety or security, unless kept under further control by the court or other persons or institutions.

(6) Nothing contained in this chapter shall prohibit the committed person from petitioning for release by writ of habeas corpus.

**NEW SECTION. Sec. 9.** A new section is added to chapter 10.77 RCW to read as follows:

For persons who have received court approval for conditional release, the secretary or the secretary's designee shall supervise the person's compliance with the court-ordered conditions of release. The level of supervision provided by the secretary shall correspond to the level of the person's public safety risk. In undertaking supervision of persons under this section, the secretary shall coordinate with any treatment providers designated pursuant to RCW 10.77.150(3), any department of corrections staff designated pursuant to RCW 10.77.150(2), and local law enforcement, if appropriate. The secretary shall adopt rules to implement this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6610.

Senator Hargrove spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Senate Bill No. 6610.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Senate Bill No. 6610 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Senate Bill No. 6610, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Senate Bill No. 6610, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

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ENGROSSED SENATE BILL NO. 6610, as amended by the House, 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 signed:

SUBSTITUTE SENATE BILL 6520,  
SECOND SUBSTITUTE SENATE BILL 6578,  
SUBSTITUTE SENATE BILL 6611.

MOTION

On motion of Senator Carrell, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 5902. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5902-S.E AMH LIA H5639.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**NEW SECTION. Sec. 1.** The legislature finds that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those communities' diversity, and contributes toward the economic vitality of those communities. The legislature further finds that more than nine hundred thousand Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated.

**NEW SECTION. Sec. 2.** (1) The accessible communities account is created in the custody of the state treasurer. One hundred dollars of the assessment imposed under RCW 46.16.381 (7), (8), and (9) must be deposited into the account. Any reduction in the penalty or fine and assessment imposed under section 6 of this act shall be applied proportionally between the penalty or fine and the assessment.

(2) The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Only the commissioner may authorize expenditures from the account.

(3) Expenditures from the account may be used for promoting greater awareness of disability issues and improved access for and inclusion and acceptance of persons with disabilities in communities in the state of Washington, including:

(a) Reimbursing travel, per diem, and reasonable accommodation for county accessible community advisory committee meetings and committee sponsored activities including, but not limited to, supporting the involvement of people with disabilities and disability organization in emergency planning and emergency preparedness activities;

(b) Establishing and maintaining an accessible communities web site;

(c) Providing training or technical assistance for county accessible community advisory committees;

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance,

inclusion, and access for persons with disabilities within the community;

(e) Reimbursing the state agency that provides administrative support to the governor's committee on disability issues and employment for costs associated with implementing this act; and

(f) Programming changes to the judicial information system accounting module required for disbursement of funds to this account.

**NEW SECTION. Sec. 3.** A new section is added to chapter 50.40 RCW to read as follows:

(1) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall:

(a) Determine eligibility of accessible community advisory committees for reimbursement or for grant funding according to section 4 of this act; and

(b) Solicit proposals from active accessible community advisory committees for projects to improve disability awareness and access for persons with disabilities, and shall select projects for funding from moneys available in the accessible communities account.

(2) The commissioner shall adopt rules to administer this section.

(3) To the extent allowed by funds available from the accessible communities account created in section 2 of this act, the governor's committee on disability issues and employment shall establish an accessible communities web site to provide the following information: Guidance, technical assistance, reference materials, and resource identification for local governments, accessible community advisory committees, and public accommodations; examples of best practices for local initiatives and activities to promote greater awareness of disability issues and access for persons with disabilities within the community; and a searchable listing of local public accommodations that have taken steps to be more disability friendly, including information on the specific access features provided.

**NEW SECTION. Sec. 4.** A new section is added to chapter 36.01 RCW to read as follows:

(1) A county has the option to expand the scope of an advisory committee established and maintained under RCW 29A.46.260 to that of an accessible community advisory committee, or to create an accessible community advisory committee.

(2) A county that has an active accessible community advisory committee may be reimbursed within available funds from the accessible communities account created in section 2 of this act for travel, per diem, and reasonable accommodation expenses for the participation of that committee's members in committee meetings and sponsored activities.

(3) A county establishes that it has an active accessible community advisory committee by submitting biennial assurances to the governor's committee on disability issues and employment that:

(a) The decision to establish an accessible community advisory committee was made by the county legislative authority, or by agents or officers acting under that authority.

(b) If an accessible community advisory committee is established by expanding the advisory committee established and maintained under RCW 29A.46.260, the county auditor supports that expansion.

(c) Committee members include persons with a diverse range of disabilities who are knowledgeable in identifying and eliminating attitudinal, programmatic, communication, and physical barriers encountered by persons with disabilities.

(d) The committee is actively involved in the following activities: Advising on addressing the needs of persons with disabilities in emergency plans; advising the county and other local governments within the county on access to programs services and activities, new construction or renovation projects, sidewalks, other pedestrian routes of travel, and disability parking enforcement; and developing local initiatives and activities to promote greater awareness of disability issues, and acceptance, involvement, and access for persons with disabilities within the community.

(4) Counties may form joint accessible community advisory committees, as long as no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 5.** RCW 29A.46.260 and 2006 c 207 s 7 are each amended to read as follows:

(1) The legislature finds that the elimination of polling places resulting from the transition to vote by mail creates barriers that restrict the ability of many voters with disabilities from achieving the independence and privacy in voting provided by the accessible voting devices required under the help America vote act. Counties adopting a vote by mail system must take appropriate steps to mitigate these impacts and to address the obligation to provide voters with disabilities an equal opportunity to vote independently and privately, to the extent that this can be achieved without incurring undue administrative and financial burden.

(2) Each county shall establish and maintain an advisory committee that includes persons with diverse disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee shall assist election officials in developing a plan to identify and implement changes to improve the accessibility of elections for voters with disabilities. The plan shall include recommendations for the following:

(a) The number of polling places that will be maintained in order to ensure that people with disabilities have reasonable access to accessible voting devices, and a written explanation for how the determination was made;

(b) The locations of polling places, drop-off facilities, voting centers, and other election-related functions necessary to maximize accessibility to persons with disabilities;

(c) Outreach to voters with disabilities on the availability of disability accommodation, including in-person disability access voting;

(d) Transportation of voting devices to locations convenient for voters with disabilities in order to ensure reasonable access for voters with disabilities; and

(e) Implementation of the provisions of the help America vote act related to persons with disabilities.

Counties must update the plan at least annually. The election review staff of the secretary of state shall review and evaluate the plan in conformance with the review procedure identified in RCW 29A.04.570.

(3) Counties may form a joint advisory committee to develop the plan identified in subsection (2) of this section if ~~((the total population of the joining counties does not exceed thirty thousand, and the counties are geographically adjacent))~~ no more than one of the participating counties has a population greater than seventy thousand.

**Sec. 6.** RCW 46.16.381 and 2007 c 262 s 1 and 2007 c 44 s 1 are each reenacted and amended to read as follows:

(1) The director shall grant special parking privileges to any person who has a disability that limits or impairs the ability to walk or involves acute sensitivity to light and meets one of the following criteria, as determined by a licensed physician, an advanced registered nurse practitioner licensed under chapter 18.79 RCW, or a physician assistant licensed under chapter 18.71A or 18.57A RCW:

(a) Cannot walk two hundred feet without stopping to rest;

(b) Is severely limited in ability to walk due to arthritic, neurological, or orthopedic condition;

(c) Has such a severe disability, that the person cannot walk without the use of or assistance from a brace, cane, another person, prosthetic device, wheelchair, or other assistive device;

(d) Uses portable oxygen;

(e) Is restricted by lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second or the arterial oxygen tension is less than sixty mm/hg on room air at rest;

(f) Impairment by cardiovascular disease or cardiac condition to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association;

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician, advanced registered nurse practitioner, or physician assistant of the applicant shall document that the disability is comparable in severity to the others listed in this subsection;

(h) Is legally blind and has limited mobility; or

(i) Is restricted by a form of porphyria to the extent that the applicant would significantly benefit from a decrease in exposure to light.

(2) The applications for parking permits for persons with disabilities and parking permits for persons with temporary disabilities are official state documents. Knowingly providing false information in conjunction with the application is a gross misdemeanor punishable under chapter 9A.20 RCW. The following statement must appear on each application form immediately below the physician's, advanced registered nurse practitioner's, or physician assistant's signature and immediately below the applicant's signature: "A parking permit for a person with disabilities may be issued only for a medical necessity that severely affects mobility or involves acute sensitivity to light (RCW 46.16.381). Knowingly providing false information on this application is a gross misdemeanor. The penalty is up to one year in jail and a fine of up to \$5,000 or both."

(3) Persons who qualify for special parking privileges are entitled to receive from the department of licensing a removable windshield placard bearing the international symbol of access and an individual serial number, along with a special identification card bearing the name and date of birth of the person to whom the placard is issued, and the placard's serial number. The special identification card shall be issued to all persons who are issued parking placards, including those issued for temporary disabilities, and special parking license plates for persons with disabilities. The department shall design the placard to be displayed when the vehicle is parked by suspending it from the rearview mirror, or in the absence of a rearview mirror the card may be displayed on the dashboard of any vehicle used to transport the person with disabilities. Instead of regular motor vehicle license plates, persons with disabilities are entitled to receive special license plates under this section or RCW 46.16.385 bearing the international symbol of access for one vehicle registered in the name of the person with disabilities. Persons with disabilities who are not issued the special license plates are entitled to receive a second special placard upon submitting a written request to the department. Persons who have been issued the parking privileges and who are using a vehicle or are riding in a vehicle displaying the placard or special license plates issued under this section or RCW 46.16.385 may park in places reserved for persons with physical disabilities. The director shall adopt rules providing for the issuance of special placards and license plates to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, boarding homes licensed under chapter 18.20 RCW, senior citizen centers, private nonprofit agencies as defined in chapter 24.03 RCW, and vehicles registered with the department as

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cabulances that regularly transport persons with disabilities who have been determined eligible for special parking privileges provided under this section. The director may issue special license plates for a vehicle registered in the name of the public transportation authority, nursing home, boarding home, senior citizen center, private nonprofit agency, or cabulance service if the vehicle is primarily used to transport persons with disabilities described in this section. Public transportation authorities, nursing homes, boarding homes, senior citizen centers, private nonprofit agencies, and cabulance services are responsible for insuring that the special placards and license plates are not used improperly and are responsible for all fines and penalties for improper use.

(4) Whenever the person with disabilities transfers or assigns his or her interest in the vehicle, the special license plates shall be removed from the motor vehicle. If another vehicle is acquired by the person with disabilities and the vehicle owner qualifies for a special plate, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the person with disabilities, the removed plate shall be immediately surrendered to the director.

(5) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who has a condition expected to improve within six months may be issued a temporary placard for a period not to exceed six months. If the condition exists after six months a new temporary placard shall be issued upon receipt of a new certification from the person's physician. The permanent parking placard and identification card of a person with disabilities shall be renewed at least every five years, as required by the director, by satisfactory proof of the right to continued use of the privileges. In the event of the permit holder's death, the parking placard and identification card must be immediately surrendered to the department. The department shall match and purge its database of parking permits issued to persons with disabilities with available death record information at least every twelve months.

(6) Additional fees shall not be charged for the issuance of the special placards or the identification cards. No additional fee may be charged for the issuance of the special license plates except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon registration of a motor vehicle.

(7) Any unauthorized use of the special placard, special license plate issued under this section or RCW 46.16.385, or identification card is a ~~(traffic)~~ parking infraction with a monetary penalty of two hundred fifty dollars. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed.

(8) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for a person to park in, block, or otherwise make inaccessible the access aisle located next to a space reserved for persons with physical disabilities. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. The clerk of the court shall report all violations related to this subsection to the department.

(9) It is a parking infraction, with a monetary penalty of two hundred fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public property reserved for persons with physical disabilities without a placard or special license plate issued under this section or RCW 46.16.385. In addition to any penalty or fine imposed under this subsection, two hundred dollars shall be assessed. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the placard or special license plate issued under this section or RCW 46.16.385 required under this section. A local

jurisdiction providing nonmetered, on-street parking places reserved for persons with physical disabilities may impose by ordinance time restrictions of no less than four hours on the use of these parking places. A local jurisdiction may impose by ordinance time restrictions of no less than four hours on the use of nonreserved, on-street parking spaces by vehicles displaying the special parking placards or special license plates issued under this section or RCW 46.16.385. All time restrictions must be clearly posted.

(10) ~~(The penalties)~~ (a) The assessment imposed under subsections (7), (8), and (9) of this section shall be allocated as follows:

(i) One hundred dollars shall be deposited in the accessible communities account created in section 2 of this act; and

(ii) One hundred dollars shall be deposited in the multimodal transportation account under RCW 47.66.070 for the sole purpose of supplementing a grant program for special needs transportation provided by transit agencies and nonprofit providers of transportation that is administered by the department of transportation.

(b) Any reduction in any penalty or fine and assessment imposed under subsections (7), (8), and (9) of this section shall be applied proportionally between the penalty or fine and the assessment. When a reduced penalty is imposed under subsection (7), (8), or (9) of this section, the amount deposited in the accounts identified in (a) of this subsection shall be reduced equally and proportionally.

(c) The penalty or fine amounts shall be used by that local jurisdiction exclusively for law enforcement. The court may also impose an additional penalty sufficient to reimburse the local jurisdiction for any costs it may have incurred in removal and storage of the improperly parked vehicle.

(11) Except as provided by subsection (2) of this section, it is a traffic infraction with a monetary penalty of two hundred fifty dollars for any person willfully to obtain a special license plate issued under this section or RCW 46.16.385, placard, or identification card in a manner other than that established under this section.

(12)(a) A law enforcement agency authorized to enforce parking laws may appoint volunteers, with a limited commission, to issue notices of infractions for violations of this section or RCW 46.61.581. Volunteers must be at least twenty-one years of age. The law enforcement agency appointing volunteers may establish any other qualifications the agency deems desirable.

(b) An agency appointing volunteers under this section must provide training to the volunteers before authorizing them to issue notices of infractions.

(c) A notice of infraction issued by a volunteer appointed under this subsection has the same force and effect as a notice of infraction issued by a police officer for the same offense.

(d) A police officer or a volunteer may request a person to show the person's identification card or special parking placard when investigating the possibility of a violation of this section. If the request is refused, the person in charge of the vehicle may be issued a notice of infraction for a violation of this section.

(13) For second or subsequent violations of this section, in addition to a monetary fine, the violator must complete a minimum of forty hours of:

(a) Community restitution for a nonprofit organization that serves persons having disabilities or disabling diseases; or

(b) Any other community restitution that may sensitize the violator to the needs and obstacles faced by persons who have disabilities.

(14) The court may not suspend more than one-half of any fine imposed under subsection (7), (8), (9), or (11) of this section.

(15) For the purposes of this section, "legally blind" means a person who: (a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision; or (b) has an eye condition of a progressive nature which may lead to blindness.

**Sec. 7.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under (b) and (c) of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the accessible communities account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self- insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk  
MOTION

Senator Pridemore moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902.

Senator Pridemore spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Pridemore that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902.

The motion by Senator Pridemore carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 5902 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 5902, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 5902, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 4; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 5902, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House refuses to concur in the Senate amendment(s) to ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 and asks the Senate to recede therefrom.  
and the same are herewith transmitted.



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BARBARA BAKER, Chief Clerk

## MOTION

Senator Kastama moved that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 2658.

The President declared the question before the Senate to be motion by Senator Kastama that the Senate recede from its position on the Senate amendments to Engrossed Second Substitute House Bill No. 2658.

The motion by Senator Kastama carried and the Senate receded from its amendments to Engrossed Second Substitute House Bill No. 2658 by voice vote.

## MOTION

On motion of Senator Kastama, the rules were suspended and Engrossed Second Substitute House Bill No. 2658 was returned to second reading for the purposes of amendment.

## SECOND READING

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658, by House Committee on Ways & Means (originally sponsored by Representatives Kenney, Maxwell, McCoy and Morrell)

Refocusing the department of commerce, including transferring programs.

The measure was read the second time.

## MOTION

Senator Kastama moved that the following striking amendment by Senator Kastama and others be adopted:

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** In 2009, the legislature changed the name of the department of community, trade, and economic development to the department of commerce and directed the agency to, among other things, develop a report with recommendations on statutory changes to ensure that the department's efforts: Are organized around a concise core mission and aligned with the state's comprehensive plan for economic development; generate greater local capacity; maximize results through partnerships and the use of intermediaries; and provide transparency and increased accountability. Recommendations for creating or consolidating programs deemed important to meeting the department's core mission and recommendations for terminating or transferring specific programs if they are not consistent with the department's core mission were to be included in the report.

In accordance with that legislation, chapter 565, Laws of 2009, in November 2009 the department of commerce submitted a plan that establishes a mission of growing and improving jobs in the state and recognizes the need for an innovation-driven economy. The plan also outlines agency priorities, efficiencies, and program transfers that will help to advance the new mission.

The primary purpose of this act is to implement portions of the department of commerce plan by transferring certain programs from the department of commerce to other state agencies whose missions are more closely aligned with the core functions of those programs. This act also directs additional efficiencies in state government and directs development of a statewide clean energy strategy, which will

better enable the department of commerce to focus on its new mission.

**Sec. 2.** RCW 43.330.005 and 1993 c 280 s 1 are each amended to read as follows:

The legislature finds that the long-term economic health of the state and its citizens depends upon the strength and vitality of its communities and businesses. It is the intent of this chapter to create a ~~((merged))~~ department of ~~((community, trade, and economic development))~~ commerce that fosters new partnerships for strong and sustainable communities. ~~((The consolidation of the department of trade and economic development and the department of community development into one department will))~~ The mission of the department is to grow and improve jobs in Washington and facilitate innovation. To carry out its mission, the department will bring together focused efforts to: Streamline access to business assistance and economic development services by providing ~~((a simpler point of entry for state programs))~~ them through sector-based, cluster-based, and regional partners; provide focused and flexible responses to changing economic conditions; generate greater local capacity to respond to both economic growth and environmental challenges; ~~((and))~~ increase accountability to the public, the executive branch, and the legislature~~((-~~

~~—A new department can bring together a focused effort to-));~~ manage growth and achieve sustainable development; diversify the state's economy and export goods and services; provide greater access to economic opportunity; stimulate private sector investment and entrepreneurship; provide stable family-wage jobs and meet the diverse needs of families; provide affordable housing and housing services; and construct public infrastructure~~((-protect our cultural heritage; and promote the health and safety of the state's citizens)).~~

The legislature further finds that as a result of the rapid pace of global social and economic change, the state and local communities will require coordinated and creative responses by every segment of the community. The state can play a role in assisting such local efforts by reorganizing state assistance efforts to promote such partnerships. The department has a primary responsibility to provide financial and technical assistance to the communities of the state, to assist in improving the delivery of federal, state, and local programs, and to provide communities with opportunities for productive and coordinated development beneficial to the well-being of communities and their residents. It is the intent of the legislature in ~~((this consolidation))~~ creating the department to maximize the use of local expertise and resources in the delivery of community and economic development services.

**Sec. 3.** RCW 43.330.007 and 2009 c 565 s 1 are each amended to read as follows:

(1) The purpose of this chapter is to establish the broad outline of the structure of the department of commerce, leaving specific details of its internal organization and management to those charged with its administration. This chapter identifies the broad functions and responsibilities of the department and is intended to provide flexibility to the director to reorganize these functions to more closely reflect its customers, its mission, and its priorities, and to make recommendations for changes.

(2) In order to generate greater local capacity, maximize results through partnerships and the use of intermediaries, and leverage the use of state resources, the department shall, in carrying out its business assistance and economic development functions, provide business and economic development services primarily through sector-based, cluster-based, and regionally based organizations rather than providing assistance directly to individual firms.

**NEW SECTION. Sec. 4.** The department shall examine the functions and operations of agricultural commodity commissions in the state and collaborate with industry sector and cluster associations on legislation that would enable industries to develop

self-financing systems for addressing industry-identified issues such as workforce training, international marketing, quality improvement, and technology deployment. By December 1, 2010, the department shall report to the governor and the legislature on its findings and proposed legislation.

**NEW SECTION. Sec. 5.** (1) The legislature recognizes that there are many strong community services and housing programs currently operating within the department and serving our most vulnerable individuals, families, and communities. The legislature finds that some of these programs can readily be transferred beginning on July 1, 2010, to other mission-aligned agencies in state government. However, the legislature finds that to maintain the strength and credibility of the majority of the department's community services and housing programs, it is necessary to create a separate division for them within the department.

(2)(a) The legislature directs the department to establish the community services and housing division to deliver essential services to individuals, families, and communities.

(b) Services provided by the division shall include, but are not limited to: (i) Homeless housing and assistance programs including transitional housing, emergency shelter grants, independent youth housing, housing assistance for persons with mental illness, and housing opportunities for people with AIDS; (ii) affordable housing development programs including the housing trust fund and low-income home energy assistance; (iii) farm worker housing; (iv) crime victims' advocacy and sexual assault services; (v) community mobilization against substance abuse and violence; (vi) asset building for working families; (vii) local and community projects including the building communities fund, building for the arts, and youth recreational facilities grants; (viii) dispute resolution centers; (ix) the Washington families fund; (x) community services block grants; (xi) child care facility fund; (xii) WorkFirst community jobs; (xiii) long-term care ombudsman; (xiv) state drug task forces; (xv) justice assistance grants; (xvi) children and families of incarcerated parents; and (xvii) the Washington new Americans program.

(3) This section expires July 1, 2012.

## PART I DEPARTMENT OF HEALTH--PUBLIC HEALTH

**Sec. 101.** RCW 70.05.125 and 2009 c 479 s 48 are each amended to read as follows:

(1) The county public health account is created in the state treasury. Funds deposited in the county public health account shall be distributed by the state treasurer to each local public health jurisdiction based upon amounts certified to it by the department of ~~((community, trade, and economic development))~~ health in consultation with the Washington state association of counties. The account shall include funds distributed under RCW 82.14.200(8) and such funds as are appropriated to the account from the state general fund, the public health services account under RCW 43.72.902, and such other funds as the legislature may appropriate to it.

(2)(a) The ~~((director))~~ secretary of the department of ~~((community, trade, and economic development))~~ health shall certify the amounts to be distributed to each local public health jurisdiction using 1995 as the base year of actual city contributions to local public health.

(b) Only if funds are available and in an amount no greater than available funds under RCW 82.14.200(8), the department of community, trade, and economic development shall adjust the amount certified under (a) of this subsection to compensate for any annexation of an area with fifty thousand residents or more to any city as a result of a petition during calendar year 1996 or 1997, or for any city that became newly incorporated as a result of an election

during calendar year 1994 or 1995. The amount to be adjusted shall be equal to the amount which otherwise would have been lost to the health jurisdiction due to the annexation or incorporation as calculated using the jurisdiction's 1995 funding formula.

(c) The county treasurer shall certify the actual 1995 city contribution to the department. Funds in excess of the base shall be distributed proportionately among the health jurisdictions based on incorporated population figures as last determined by the office of financial management.

(3) Moneys distributed under this section shall be expended exclusively for local public health purposes.

**NEW SECTION. Sec. 102.** (1) All powers, duties, and functions of the department of commerce pertaining to county public health assistance are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the

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department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

RCW 43.330.225  
 RCW 43.330.230  
 RCW 43.330.240

**PART II  
 DEPARTMENT OF HEALTH--DEVELOPMENTAL  
 DISABILITIES**

**Sec. 201.** RCW 43.330.210 and 2009 c 565 s 11 are each amended to read as follows:

The developmental disabilities endowment governing board is established to design and administer the developmental disabilities endowment. To the extent funds are appropriated for this purpose, the ~~((director))~~ secretary of the department ~~((of commerce))~~ shall provide staff and administrative support to the governing board.

(1) The governing board shall consist of seven members as follows:

(a) Three of the members, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as finance, actuarial science, management, business, or public policy.

(b) Three members of the board, who shall be appointed by the governor, shall be persons who have demonstrated expertise and leadership in areas such as business, developmental disabilities service design, management, or public policy, and shall be family members of persons with developmental disabilities.

(c) The seventh member of the board, who shall serve as chair of the board, shall be appointed by the remaining six members of the board.

(2) Members of the board shall serve terms of four years and may be appointed for successive terms of four years at the discretion of the appointing authority. However, the governor may stagger the terms of the initial six members of the board so that approximately one-fourth of the members' terms expire each year.

(3) Members of the board shall be compensated for their service under RCW 43.03.240 and shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(4) The board shall meet periodically as specified by the call of the chair, or a majority of the board.

(5) Members of the governing board and the state investment board shall not be considered an insurer of the funds or assets of the endowment trust fund or the individual trust accounts. Neither of these two boards or their members shall be liable for the action or inaction of the other.

(6) Members of the governing board and the state investment board are not liable to the state, to the fund, or to any other person as a result of their activities as members, whether ministerial or discretionary, except for willful dishonesty or intentional violations of law. The department and the state investment board, respectively, may purchase liability insurance for members.

**Sec. 202.** RCW 43.330.240 and 2009 c 565 s 12 are each amended to read as follows:

The department ~~((of commerce))~~ shall adopt rules for the implementation of policies established by the governing board in RCW 43.330.200 through 43.330.230 ~~((as recodified by this act))~~. Such rules will be consistent with those statutes and chapter 34.05 RCW.

**NEW SECTION. Sec. 203.** The following sections are each recodified as sections in chapter 43.70 RCW:

RCW 43.330.195  
 RCW 43.330.200  
 RCW 43.330.205  
 RCW 43.330.210  
 RCW 43.330.220

**NEW SECTION. Sec. 204.** (1) All powers, duties, and functions of the department of commerce pertaining to the developmental disabilities endowment are transferred to the department of health. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the secretary or the department of health when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of health. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of health. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of health.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of health.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of health. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of health to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of health. All existing contracts and obligations shall remain in full force and shall be performed by the department of health.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of health under this section whose positions are within an existing bargaining unit description at the department of health shall become a part of the existing bargaining unit at the department of health and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

**PART III  
 BUILDING CODE COUNCIL**

**Sec. 301.** RCW 19.27.070 and 1995 c 399 s 8 are each amended to read as follows:

There is hereby established a state building code council to be appointed by the governor.

(1) The state building code council shall consist of fifteen members, two of whom shall be county elected legislative body members or elected executives and two of whom shall be city elected legislative body members or mayors. One of the members shall be a local government building code enforcement official and one of the members shall be a local government fire service official. Of the remaining nine members, one member shall represent general construction, specializing in commercial and industrial building construction; one member shall represent general construction, specializing in residential and multifamily building construction; one member shall represent the architectural design profession; one member shall represent the structural engineering profession; one member shall represent the mechanical engineering profession; one member shall represent the construction building trades; one member shall represent manufacturers, installers, or suppliers of building materials and components; one member shall be a person with a physical disability and shall represent the disability community; and one member shall represent the general public. At least six of these fifteen members shall reside east of the crest of the Cascade mountains. The council shall include: Two members of the house of representatives appointed by the speaker of the house, one from each caucus; two members of the senate appointed by the president of the senate, one from each caucus; and an employee of the electrical division of the department of labor and industries, as ex officio, nonvoting members with all other privileges and rights of membership. Terms of office shall be for three years. The council shall elect a member to serve as chair of the council for one-year terms of office. Any member who is appointed by virtue of being an elected official or holding public employment shall be removed from the council if he or she ceases being such an elected official or holding such public employment. Before making any appointments to the building code council, the governor shall seek nominations from recognized organizations which represent the entities or interests listed in this subsection. Members serving on the council on July 28, 1985, may complete their terms of office. Any vacancy shall be filled by alternating appointments from governmental and nongovernmental entities or interests until the council is constituted as required by this subsection.

(2) Members shall not be compensated but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(3) The department of (~~community, trade, and economic development~~) general administration shall provide administrative and clerical assistance to the building code council.

**Sec. 302.** RCW 19.27.097 and 1995 c 399 s 9 are each amended to read as follows:

(1) Each applicant for a building permit of a building necessitating potable water shall provide evidence of an adequate water supply for the intended use of the building. Evidence may be in the form of a water right permit from the department of ecology, a letter from an approved water purveyor stating the ability to provide water, or another form sufficient to verify the existence of an adequate water supply. In addition to other authorities, the county or city may impose conditions on building permits requiring connection to an existing public water system where the existing system is willing and able to provide safe and reliable potable water to the applicant with reasonable economy and efficiency. An application for a water right shall not be sufficient proof of an adequate water supply.

(2) Within counties not required or not choosing to plan pursuant to RCW 36.70A.040, the county and the state may

mutually determine those areas in the county in which the requirements of subsection (1) of this section shall not apply. The departments of health and ecology shall coordinate on the implementation of this section. Should the county and the state fail to mutually determine those areas to be designated pursuant to this subsection, the county may petition the department of (~~community, trade, and economic development~~) general administration to mediate or, if necessary, make the determination.

(3) Buildings that do not need potable water facilities are exempt from the provisions of this section. The department of ecology, after consultation with local governments, may adopt rules to implement this section, which may recognize differences between high-growth and low-growth counties.

**Sec. 303.** RCW 19.27.150 and 1995 c 399 s 10 are each amended to read as follows:

Every month a copy of the United States department of commerce, bureau of the census' "report of building or zoning permits issued and local public construction" or equivalent report shall be transmitted by the governing bodies of counties and cities to the department of (~~community, trade, and economic development~~) general administration.

**Sec. 304.** RCW 19.27A.020 and 2009 c 423 s 4 are each amended to read as follows:

(1) The state building code council shall adopt rules to be known as the Washington state energy code as part of the state building code.

(2) The council shall follow the legislature's standards set forth in this section to adopt rules to be known as the Washington state energy code. The Washington state energy code shall be designed to:

(a) Construct increasingly energy efficient homes and buildings that help achieve the broader goal of building zero fossil-fuel greenhouse gas emission homes and buildings by the year 2031;

(b) Require new buildings to meet a certain level of energy efficiency, but allow flexibility in building design, construction, and heating equipment efficiencies within that framework; and

(c) Allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The Washington state energy code shall take into account regional climatic conditions. Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall be the 2006 edition of the Washington state energy code, or as amended by rule by the council.

(5) The minimum state energy code for new nonresidential buildings shall be the Washington state energy code, 2006 edition, or as amended by the council by rule.

(6)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to March 1, 1990. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to March 1, 1990.

(7) The state building code council shall consult with the department of (~~community, trade, and economic development~~) general administration as provided in RCW 34.05.310 prior to publication of proposed rules. The director of the department of (~~community, trade, and economic development~~) general administration shall recommend to the state building code council

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any changes necessary to conform the proposed rules to the requirements of this section.

(8) The state building code council shall evaluate and consider adoption of the international energy conservation code in Washington state in place of the existing state energy code.

(9) The definitions in RCW 19.27A.140 apply throughout this section.

**Sec. 305.** RCW 19.27A.140 and 2009 c 423 s 2 are each amended to read as follows:

The definitions in this section apply to RCW 19.27A.130 through 19.27A.190 and 19.27A.020 unless the context clearly requires otherwise.

(1) "Benchmark" means the energy used by a facility as recorded monthly for at least one year and the facility characteristics information inputs required for a portfolio manager.

(2) "Conditioned space" means conditioned space, as defined in the Washington state energy code.

(3) "Consumer-owned utility" includes a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

(4) "Cost-effectiveness" means that a project or resource is forecast:

(a) To be reliable and available within the time it is needed; and

(b) To meet or reduce the power demand of the intended consumers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative project or resource, or any combination thereof.

(5) "Council" means the state building code council.

(6) (~~"Department" means the department of community, trade, and economic development.~~)

(7) "Embodied energy" means the total amount of fossil fuel energy consumed to extract raw materials and to manufacture, assemble, transport, and install the materials in a building and the life-cycle cost benefits including the recyclability and energy efficiencies with respect to building materials, taking into account the total sum of current values for the costs of investment, capital, installation, operating, maintenance, and replacement as estimated for the lifetime of the product or project.

(8) (7) "Energy consumption data" means the monthly amount of energy consumed by a customer as recorded by the applicable energy meter for the most recent twelve-month period.

(9) (8) "Energy service company" has the same meaning as in RCW 43.19.670.

(10) (9) "General administration" means the department of general administration.

(11) (10) "Greenhouse gas" and "greenhouse gases" includes carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(12) (11) "Investment grade energy audit" means an intensive engineering analysis of energy efficiency and management measures for the facility, net energy savings, and a cost-effectiveness determination.

(13) (12) "Investor-owned utility" means a corporation owned by investors that meets the definition of "corporation" as defined in RCW 80.04.010 and is engaged in distributing either electricity or natural gas, or both, to more than one retail electric customer in the state.

(14) (13) "Major facility" means any publicly owned or leased building, or a group of such buildings at a single site, having ten thousand square feet or more of conditioned floor space.

(15) (14) "National energy performance rating" means the score provided by the energy star program, to indicate the energy efficiency performance of the building compared to similar buildings in that climate as defined in the United States environmental protection agency "ENERGY STAR® Performance Ratings Technical Methodology."

(16) (15) "Net zero energy use" means a building with net energy consumption of zero over a typical year.

(17) (16) "Portfolio manager" means the United States environmental protection agency's energy star portfolio manager or an equivalent tool adopted by the department of general administration.

(18) (17) "Preliminary energy audit" means a quick evaluation by an energy service company of the energy savings potential of a building.

(19) (18) "Qualifying public agency" includes all state agencies, colleges, and universities.

(20) (19) "Qualifying utility" means a consumer-owned or investor-owned gas or electric utility that serves more than twenty-five thousand customers in the state of Washington.

(21) (20) "Reporting public facility" means any of the following:

(a) A building or structure, or a group of buildings or structures at a single site, owned by a qualifying public agency, that exceed ten thousand square feet of conditioned space;

(b) Buildings, structures, or spaces leased by a qualifying public agency that exceeds ten thousand square feet of conditioned space, where the qualifying public agency purchases energy directly from the investor-owned or consumer-owned utility;

(c) A wastewater treatment facility owned by a qualifying public agency; or

(d) Other facilities selected by the qualifying public agency.

(22) (21) "State portfolio manager master account" means a portfolio manager account established to provide a single shared portfolio that includes reports for all the reporting public facilities.

**Sec. 306.** RCW 19.27A.150 and 2009 c 423 s 3 are each amended to read as follows:

(1) To the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and implement a strategic plan for enhancing energy efficiency in and reducing greenhouse gas emissions from homes, buildings, districts, and neighborhoods. The strategic plan must be used to help direct the future code increases in RCW 19.27A.020, with targets for new buildings consistent with RCW 19.27A.160. The strategic plan will identify barriers to achieving net zero energy use in homes and buildings and identify how to overcome these barriers in future energy code updates and through complementary policies.

(2) The department of commerce must complete and release the strategic plan to the legislature and the council by December 31, 2010, and update the plan every three years.

(3) The strategic plan must include recommendations to the council on energy code upgrades. At a minimum, the strategic plan must:

(a) Consider development of aspirational codes separate from the state energy code that contain economically and technically feasible optional standards that could achieve higher energy efficiency for those builders that elected to follow the aspirational codes in lieu of or in addition to complying with the standards set forth in the state energy code;

(b) Determine the appropriate methodology to measure achievement of state energy code targets using the United States

environmental protection agency's target finder program or equivalent methodology;

(c) Address the need for enhanced code training and enforcement;

(d) Include state strategies to support research, demonstration, and education programs designed to achieve a seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160 and enhance energy efficiency and on-site renewable energy production in buildings;

(e) Recommend incentives, education, training programs and certifications, particularly state-approved training or certification programs, joint apprenticeship programs, or labor-management partnership programs that train workers for energy-efficiency projects to ensure proposed programs are designed to increase building professionals' ability to design, construct, and operate buildings that will meet the seventy percent reduction in annual net energy consumption as specified in RCW 19.27A.160;

(f) Address barriers for utilities to serve net zero energy homes and buildings and policies to overcome those barriers;

(g) Address the limits of a prescriptive code in achieving net zero energy use homes and buildings and propose a transition to performance-based codes;

(h) Identify financial mechanisms such as tax incentives, rebates, and innovative financing to motivate energy consumers to take action to increase energy efficiency and their use of on-site renewable energy. Such incentives, rebates, or financing options may consider the role of government programs as well as utility-sponsored programs;

(i) Address the adequacy of education and technical assistance, including school curricula, technical training, and peer-to-peer exchanges for professional and trade audiences;

(j) Develop strategies to develop and install district and neighborhood-wide energy systems that help meet net zero energy use in homes and buildings;

(k) Identify costs and benefits of energy efficiency measures on residential and nonresidential construction; and

(l) Investigate methodologies and standards for the measurement of the amount of embodied energy used in building materials.

(4) The department of commerce and the council shall convene a work group with the affected parties to inform the initial development of the strategic plan.

**Sec. 307.** RCW 19.27A.180 and 2009 c 423 s 7 are each amended to read as follows:

By December 31, 2009, to the extent that funding is appropriated specifically for the purposes of this section, the department of commerce shall develop and recommend to the legislature a methodology to determine an energy performance score for residential buildings and an implementation strategy to use such information to improve the energy efficiency of the state's existing housing supply. In developing its strategy, the department of commerce shall seek input from providers of residential energy audits, utilities, building contractors, mixed use developers, the residential real estate industry, and real estate listing and form providers.

**NEW SECTION. Sec. 308.** (1) All powers, duties, and functions of the department of commerce pertaining to administrative and support services for the state building code council are transferred to the department of general administration. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the department of general administration when referring to the functions transferred in this section. Policy and planning assistance functions performed by the department of commerce remain with the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the department of general administration. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the department of general administration. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the department of general administration.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the department of general administration.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the department of general administration. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the department of general administration to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the department of general administration. All existing contracts and obligations shall remain in full force and shall be performed by the department of general administration.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the department of general administration under this section whose positions are within an existing bargaining unit description at the department of general administration shall become a part of the existing bargaining unit at the department of general administration and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

#### **PART IV DEPARTMENT OF COMMERCE--ENERGY POLICY**

**Sec. 401.** RCW 43.21F.010 and 1975-'76 2nd ex.s. c 108 s 1 are each amended to read as follows:

(1) The legislature finds that the state needs to implement a comprehensive energy planning process that:

(a) Is based on high quality, unbiased analysis;

(b) Engages public agencies and stakeholders in a thoughtful, deliberative process that creates a cohesive plan that earns sustained

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support of the public and organizations and institutions that will ultimately be responsible for implementation and execution of the plan; and

(c) Establishes policies and practices needed to ensure the effective implementation of the strategy.

(2) The legislature further finds that energy drives the entire modern economy from petroleum for vehicles to electricity to light homes and power businesses. The legislature further finds that the nation and the world have started the transition to a clean energy economy, with significant improvements in energy efficiency and investments in new clean and renewable energy resources and technologies. The legislature further finds this transition may increase or decrease energy costs and efforts should be made to mitigate cost increases.

(3) The legislature finds and declares that it is the continuing purpose of state government, consistent with other essential considerations of state policy, to foster wise and efficient energy use and to promote energy self-sufficiency through the use of indigenous and renewable energy sources, consistent with the promotion of reliable energy sources, the general welfare, and the protection of environmental quality.

(4) The legislature further declares that a successful state energy strategy must balance three goals to:

(a) Maintain competitive energy prices that are fair and reasonable for consumers and businesses and support our state's continued economic success;

(b) Increase competitiveness by fostering a clean energy economy and jobs through business and workforce development; and

(c) Meet the state's obligations to reduce greenhouse gas emissions.

**Sec. 402.** RCW 43.21F.025 and 2009 c 565 s 27 are each reenacted and amended to read as follows:

(1) "Assistant director" means the assistant director of the department of commerce responsible for energy policy activities;

(2) "Department" means the department of commerce;

(3) "Director" means the director of the department of commerce;

(4) "Distributor" means any person, private corporation, partnership, individual proprietorship, utility, including investor-owned utilities, municipal utility, public utility district, joint operating agency, or cooperative, which engages in or is authorized to engage in the activity of generating, transmitting, or distributing energy in this state;

(5) "Energy" means petroleum or other liquid fuels; natural or synthetic fuel gas; solid carbonaceous fuels; fissionable nuclear material; electricity; solar radiation; geothermal resources; hydropower; organic waste products; wind; tidal activity; any other substance or process used to produce heat, light, or motion; or the savings from nongeneration technologies, including conservation or improved efficiency in the usage of any of the sources described in this subsection;

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

(7) "State energy strategy" means the document ~~((and energy policy direction)) developed ((under section 1, chapter 201, Laws of 1991 including any related appendices)) and updated by the department as allowed in RCW 43.21F.090.~~

**NEW SECTION. Sec. 403.** A new section is added to chapter 43.21F RCW to read as follows:

(1) The state shall use the following principles to guide development and implementation of the state's energy strategy and to meet the goals of RCW 43.21F.010:

(a) Pursue all cost-effective energy efficiency and conservation as the state's preferred energy resource, consistent with state law;

(b) Ensure that the state's energy system meets the health, welfare, and economic needs of its citizens with particular emphasis on meeting the needs of low-income and vulnerable populations;

(c) Maintain and enhance economic competitiveness by ensuring an affordable and reliable supply of energy resources and by supporting clean energy technology innovation, access to clean energy markets worldwide, and clean energy business and workforce development;

(d) Reduce dependence on fossil fuel energy sources through improved efficiency and development of cleaner energy sources, such as bioenergy, low-carbon energy sources, and natural gas, and leveraging the indigenous resources of the state for the production of clean energy;

(e) Improve efficiency of transportation energy use through advances in vehicle technology, increased system efficiencies, development of electricity, biofuels, and other clean fuels, and regional transportation planning to improve transportation choices;

(f) Meet the state's statutory greenhouse gas limits and environmental requirements as the state develops and uses energy resources;

(g) Build on the advantage provided by the state's clean regional electrical grid by expanding and integrating additional carbon-free and carbon-neutral generation, and improving the transmission capacity serving the state;

(h) Make state government a model for energy efficiency, use of clean and renewable energy, and greenhouse gas-neutral operations; and

(i) Maintain and enhance our state's existing energy infrastructure.

(2) The department shall:

(a) During energy shortage emergencies, give priority in the allocation of energy resources to maintaining the public health, safety, and welfare of the state's citizens and industry in order to minimize adverse impacts on their physical, social, and economic well-being;

(b) Develop and disseminate impartial and objective energy information and analysis, while taking full advantage of the capabilities of the state's institutions of higher education, national laboratory, and other organizations with relevant expertise and analytical capabilities;

(c) Actively seek to maximize federal and other nonstate funding and support to the state for energy efficiency, renewable energy, emerging energy technologies, and other activities of benefit to the state's overall energy future; and

(d) Monitor the actions of all agencies of the state for consistent implementation of the state's energy policy including applicable statutory policies and goals relating to energy supply and use.

**Sec. 404.** RCW 43.21F.090 and 1996 c 186 s 106 are each amended to read as follows:

(1) By December 1, 2010, the department ((shall review the state energy strategy as developed under section 1, chapter 201, Laws of 1991, periodically with the guidance of an advisory committee. For each review, an advisory committee shall be established with a membership resembling as closely as possible the original energy strategy advisory committee specified under section 1, chapter 201, Laws of 1991. Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, a written report shall be conveyed by the department to the governor and the appropriate legislative committees. Any advisory committee established under this

section shall be dissolved within three months after their written report is conveyed.) of commerce shall update and revise the state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section. By December 1, 2011, and at least every five years thereafter, the department shall produce a fully updated state energy strategy and implementation report with the guidance of an advisory committee formed under subsection (4) of this section.

(2)(a) The strategy shall, to the maximum extent feasible, examine the state's entire energy system.

(b) In producing and updating the energy strategy, the department and advisory committee shall review related processes and documents relevant to a state energy strategy including, but not limited to, prior state energy strategies, the work of the clean energy leadership council, the climate advisory and action teams, the evergreen jobs committee, and reports of the state transportation planning commission, the economic development commission, and the Northwest power and conservation council.

(c) The strategy must build upon and be consistent with all relevant and applicable statutorily authorized energy, environmental, and other policies, goals, and programs.

(d) The strategy must identify administrative actions, regulatory coordination, and legislative recommendations that need to be undertaken to ensure that the energy strategy is implemented and operationally supported by all state agencies and regulatory bodies responsible for implementation of energy policy in the state.

(3) In order to facilitate high quality decision making, the director of the department shall engage a group of scientific, engineering, economic, and other experts in energy analysis.

(a) This group shall be comprised of representatives from the following institutions:

(i) Research institutions of higher education;

(ii) The Pacific Northwest national laboratory;

(iii) The Northwest power planning and conservation council; and

(iv) Other private, public, and nonprofit organizations that have a recognized expertise in engineering or economic analysis.

(b) This group will:

(i) Identify near and long-term analytical needs and capabilities necessary to develop a state energy strategy;

(ii) Provide unbiased information about the state and region's energy portfolio, future energy needs, scenarios for growth, and improved productivity.

(c) The department and advisory committee shall use this information in updating the state energy strategy.

(4)(a) In order to update the state strategy, the department shall form an advisory committee.

(b) The director shall appoint the advisory committee with a membership reflecting a balance of the interests in:

(i) Energy generation, distribution, and consumption;

(ii) Economic development; and

(iii) Environmental protection, including:

(A) Residential, commercial, industrial, and agricultural users;

(B) Electric and natural gas utilities or organizations, both consumer-owned and investor-owned;

(C) Liquid fuel and natural gas industries;

(D) Local governments;

(E) Civic and environmental organizations;

(F) Clean energy companies;

(G) Energy research and development organizations, economic development organizations, and key public agencies; and

(H) Other interested stakeholders.

(c) Any advisory committee established under this section must be dissolved within three months after the written report is conveyed.

(d) The department and advisory committee shall work with

stakeholders and other state agencies to develop the strategy.

(5) Upon completion of a public hearing regarding the advisory committee's advice and recommendations for revisions to the energy strategy, the department shall present a written report to the governor and legislature which may include specific actions that will be needed to implement the strategy. The legislature shall, by concurrent resolution, approve or recommend changes to the strategy and updates.

(6) The department may periodically review and update the state energy strategy as necessary. The department shall engage an advisory committee as required in this section when updating the strategy and present any updates to the legislature for its approval.

(7) To assist in updates of the state energy strategy, the department shall actively seek both in-kind and financial support for this process from other nonstate sources. In order to avoid competition among Washington state agencies, the department shall coordinate the search for such external support. The department shall develop a work plan for updating the energy strategy that reflects the levels of activities and deliverables commensurate with the level of funding and in-kind support available from state and nonstate sources.

**NEW SECTION. Sec. 405.** RCW 43.21F.015 (State policy) and 1994 c 207 s 3 & 1981 c 295 s 1 are each repealed.

## PART V

### CRIMINAL JUSTICE TRAINING COMMISSION—DRUG PROSECUTION ASSISTANCE PROGRAM

**Sec. 501.** RCW 36.27.100 and 1995 c 399 s 41 are each amended to read as follows:

The legislature recognizes that, due to the magnitude or volume of offenses in a given area of the state, there is a recurring need for supplemental assistance in the prosecuting of drug and drug-related offenses that can be directed to the area of the state with the greatest need for short-term assistance. A statewide drug prosecution assistance program is created within the (~~department of community, trade, and economic development~~) criminal justice training commission to assist county prosecuting attorneys in the prosecution of drug and drug-related offenses.

**NEW SECTION. Sec. 502.** (1) All powers, duties, and functions of the department of commerce pertaining to the drug prosecution assistance program are transferred to the criminal justice training commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the director or the criminal justice training commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the criminal justice training commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the criminal justice training commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the criminal justice training commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the criminal justice training commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions



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transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the criminal justice training commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the criminal justice training commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the criminal justice training commission. All existing contracts and obligations shall remain in full force and shall be performed by the criminal justice training commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the criminal justice training commission under this section whose positions are within an existing bargaining unit description at the criminal justice training commission shall become a part of the existing bargaining unit at the criminal justice training commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART VI

### WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION—ENERGY

**Sec. 601.** RCW 80.50.030 and 2001 c 214 s 4 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2)(a) The chair of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chair may designate a member of the council to serve as acting chair in the event of the chair's absence. The salary of the chair shall be determined under RCW 43.03.040. The chair is a "state employee" for the purposes of chapter 42.52 RCW. As applicable, when attending meetings of the council, members may receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060, and are eligible for compensation under RCW 43.03.250.

(b) The chair or a designee shall execute all official documents, contracts, and other materials on behalf of the council. The Washington ~~((state department of community, trade, and economic development))~~ utilities and transportation commission shall provide all administrative and staff support for the council. The ~~((director of the department of community, trade, and economic development))~~ commission has supervisory authority over the staff of the council and shall employ such personnel as are necessary to

implement this chapter. Not more than three such employees may be exempt from chapter 41.06 RCW. The council shall otherwise retain its independence in exercising its powers, functions, and duties and its supervisory control over nonadministrative staff support. Membership, powers, functions, and duties of the Washington state utilities and transportation commission and the council shall otherwise remain as provided by law.

(3)(a) The council shall consist of the directors, administrators, or their designees, of the following departments, agencies, commissions, and committees or their statutory successors:

- (i) Department of ecology;
- (ii) Department of fish and wildlife;
- (iii) Department of ~~((community, trade, and economic development))~~ commerce;
- (iv) Utilities and transportation commission; and
- (v) Department of natural resources.

(b) The directors, administrators, or their designees, of the following departments, agencies, and commissions, or their statutory successors, may participate as councilmembers at their own discretion provided they elect to participate no later than sixty days after an application is filed:

- (i) Department of agriculture;
- (ii) Department of health;
- (iii) Military department; and
- (iv) Department of transportation.

(c) Council membership is discretionary for agencies that choose to participate under (b) of this subsection only for applications that are filed with the council on or after May 8, 2001. For applications filed before May 8, 2001, council membership is mandatory for those agencies listed in (b) of this subsection.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

NEW SECTION. Sec. 602. (1) All administrative powers, duties, and functions of the department of commerce pertaining to the energy facility site evaluation council are transferred to the Washington utilities and transportation commission. All references to the director or the department of commerce in the Revised Code of Washington shall be construed to mean the Washington utilities and transportation commission when referring to the functions transferred in this section.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the department of commerce pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington utilities and transportation commission. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the department of commerce in carrying out the powers, functions, and duties transferred shall be made available to the Washington utilities and transportation commission. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington utilities and transportation commission.

(b) Any appropriations made to the department of commerce for carrying out the powers, functions, and duties transferred shall, on the effective date of this section, be transferred and credited to the Washington utilities and transportation commission.

(c) Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All employees of the department of commerce engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington utilities and transportation commission. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington utilities and transportation commission to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

(4) All rules and all pending business before the department of commerce pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington utilities and transportation commission. All existing contracts and obligations shall remain in full force and shall be performed by the Washington utilities and transportation commission.

(5) The transfer of the powers, duties, functions, and personnel of the department of commerce shall not affect the validity of any act performed before the effective date of this section.

(6) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

(7) All classified employees of the department of commerce assigned to the Washington utilities and transportation commission under this section whose positions are within an existing bargaining unit description at the Washington utilities and transportation commission shall become a part of the existing bargaining unit at the Washington utilities and transportation commission and shall be considered an appropriate inclusion or modification of the existing bargaining unit under the provisions of chapter 41.80 RCW.

## PART VII MUNICIPAL RESEARCH COUNCIL

**Sec. 701.** RCW 43.110.030 and 2000 c 227 s 3 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of municipal research and services to cities, towns, and counties. Contracts for municipal research and services shall be made with state agencies, educational institutions,

or private consulting firms, that in the judgment of ~~((council members))~~ the department are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the ~~((council members))~~ department are qualified to provide such support.

(2) Municipal research and services shall consist of:

~~((1))~~ (a) Studying and researching city, town, and county government and issues relating to city, town, and county government;

~~((2))~~ (b) Acquiring, preparing, and distributing publications related to city, town, and county government and issues relating to city, town, and county government;

~~((3))~~ (c) Providing educational conferences relating to city, town, and county government and issues relating to city, town, and county government; and

~~((4))~~ (d) Furnishing legal, technical, consultative, and field services to cities, towns, and counties concerning planning, public health, utility services, fire protection, law enforcement, public works, and other issues relating to city, town, and county government.

(3) Requests for legal services by county officials shall be sent to the office of the county prosecuting attorney. Responses by the ~~((municipal research council))~~ department of commerce to county requests for legal services shall be provided to the requesting official and the county prosecuting attorney.

(4) The ~~((activities, programs, and services of the municipal research council shall be carried on in cooperation))~~ department of commerce shall coordinate with the association of Washington cities and the Washington state association of counties in carrying out the activities in this section. Services to cities and towns shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the city and town research services account under RCW 43.110.060. Services to counties shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department from the county research services account under RCW 43.110.050.

**Sec. 702.** RCW 43.110.060 and 2002 c 38 s 4 are each amended to read as follows:

The city and town research services account is created in the state treasury. Moneys in the account shall consist of amounts transferred under RCW 66.08.190(2) and any other transfers or appropriations to the account. Moneys in the account may be spent only after an appropriation. Expenditures from the account may be used only for city and town research.

All unobligated moneys remaining in the account at the end of the fiscal biennium shall be distributed by the treasurer to the incorporated cities and towns of the state in the same manner as the distribution under RCW 66.08.190(1)(b)(iii).

((The treasurer may disburse amounts appropriated to the municipal research council from the city and town research services account by warrant or check to the contracting parties on invoices or vouchers certified by the chair of the municipal research council or his or her designee.)) Payments to public agencies may be made in advance of actual work contracted for, at the discretion of the ~~((council))~~ department of commerce.

**Sec. 703.** RCW 43.110.080 and 2006 c 328 s 1 are each amended to read as follows:

(1) The ~~((municipal research council))~~ department of commerce shall contract for the provision of research and services to special purpose districts. A contract shall be made with a state agency, educational institution, or private consulting firm, that in the judgment of ~~((council members))~~ the department is qualified to provide such research and services.

(2) Research and services to special purpose districts shall consist of:

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(a) Studying and researching issues relating to special purpose district government;

(b) Acquiring, preparing, and distributing publications related to special purpose districts; and

(c) Furnishing legal, technical, consultative, and field services to special purpose districts concerning issues relating to special purpose district government.

(3) The ~~((activities, programs, and services of the municipal research council to special purpose districts shall be carried on in cooperation))~~ department of commerce shall coordinate with the associations representing the various special purpose districts with respect to carrying out the activities in this section. Services to special purpose districts shall be based upon the moneys appropriated to the ~~((municipal research council))~~ department of commerce from the special purpose district research services account under RCW 43.110.090.

**Sec. 704.** RCW 43.15.020 and 2009 c 560 s 27 are each amended to read as follows:

The lieutenant governor serves as president of the senate and is responsible for making appointments to, and serving on, the committees and boards as set forth in this section.

(1) The lieutenant governor serves on the following boards and committees:

(a) Capitol furnishings preservation committee, RCW 27.48.040;

(b) Washington higher education facilities authority, RCW 28B.07.030;

(c) Productivity board, also known as the employee involvement and recognition board, RCW 41.60.015;

(d) State finance committee, RCW 43.33.010;

(e) State capitol committee, RCW 43.34.010;

(f) Washington health care facilities authority, RCW 70.37.030;

(g) State medal of merit nominating committee, RCW 1.40.020;

(h) Medal of valor committee, RCW 1.60.020; and

(i) Association of Washington generals, RCW 43.15.030.

(2) The lieutenant governor, and when serving as president of the senate, appoints members to the following boards and committees:

(a) Civil legal aid oversight committee, RCW 2.53.010;

(b) Office of public defense advisory committee, RCW 2.70.030;

(c) Washington state gambling commission, RCW 9.46.040;

(d) Sentencing guidelines commission, RCW 9.94A.860;

(e) State building code council, RCW 19.27.070;

(f) Women's history consortium board of advisors, RCW 27.34.365;

(g) Financial ~~((literacy))~~ education public-private partnership, RCW 28A.300.450;

(h) Joint administrative rules review committee, RCW 34.05.610;

(i) Capital projects advisory review board, RCW 39.10.220;

(j) Select committee on pension policy, RCW 41.04.276;

(k) Legislative ethics board, RCW 42.52.310;

(l) Washington citizens' commission on salaries, RCW 43.03.305;

(m) Legislative oral history committee, RCW 44.04.325;

(n) State council on aging, RCW 43.20A.685;

(o) State investment board, RCW 43.33A.020;

(p) Capitol campus design advisory committee, RCW 43.34.080;

(q) Washington state arts commission, RCW 43.46.015;

(r) Information services board, RCW 43.105.032;

(s) K-20 educational network board, RCW 43.105.800;

(t) ~~((Municipal research council, RCW 43.110.010;~~

~~((u))~~ Council for children and families, RCW 43.121.020;

~~((w))~~ (u) PNWER-Net working subgroup under chapter 43.147 RCW;

~~((w))~~ (v) Community economic revitalization board, RCW 43.160.030;

~~((w))~~ (w) Washington economic development finance authority, RCW 43.163.020;

~~((w))~~ (x) Life sciences discovery fund authority, RCW 43.350.020;

~~((z))~~ (y) Legislative children's oversight committee, RCW 44.04.220;

~~((aa))~~ (z) Joint legislative audit and review committee, RCW 44.28.010;

~~((bb))~~ (aa) Joint committee on energy supply and energy conservation, RCW 44.39.015;

~~((cc))~~ (bb) Legislative evaluation and accountability program committee, RCW 44.48.010;

~~((dd))~~ (cc) Agency council on coordinated transportation, RCW 47.06B.020;

~~((ee))~~ (dd) Manufactured housing task force, RCW 59.22.090;

~~((ff))~~ (ee) Washington horse racing commission, RCW 67.16.014;

~~((gg))~~ (ff) Correctional industries board of directors, RCW 72.09.080;

~~((hh))~~ (gg) Joint committee on veterans' and military affairs, RCW 73.04.150;

~~((ii))~~ (hh) Joint legislative committee on water supply during drought, RCW 90.86.020;

~~((jj))~~ (ii) Statute law committee, RCW 1.08.001; and

~~((kk))~~ (jj) Joint legislative oversight committee on trade policy, RCW 44.55.020.

**Sec. 705.** RCW 35.21.185 and 1995 c 21 s 1 are each amended to read as follows:

(1) It is the purpose of this section to provide a means whereby all cities and towns may obtain, through a single source, information regarding ordinances of other cities and towns that may be of assistance to them in enacting appropriate local legislation.

(2) For the purposes of this section, (a) "clerk" means the city or town clerk or other person who is lawfully designated to perform the recordkeeping function of that office, and (b) "~~((municipal research council))~~ department" means the ~~((municipal research council created by chapter 43.110 RCW))~~ department of commerce.

(3) The clerk of every city and town is directed to provide to the ~~((municipal research council))~~ department or its designee, promptly after adoption, a copy of each of its regulatory ordinances and such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the ~~((municipal research council))~~ department or its designee from time to time, and may provide such copies without charge. The ~~((municipal research council))~~ department may provide that information to the entity with which it contracts for the provision of municipal research and services, in order to provide a pool of information for all cities and towns in the state of Washington.

(4) This section is intended to be directory and not mandatory.

**Sec. 706.** RCW 35.102.040 and 2006 c 301 s 7 are each amended to read as follows:

(1)(a) The cities, working through the association of Washington cities, shall form a model ordinance development committee made up of a representative sampling of cities that as of July 27, 2003, impose a business and occupation tax. This committee shall work through the association of Washington cities to adopt a model ordinance on municipal gross receipts business and occupation tax. The model ordinance and subsequent amendments shall be adopted using a process that includes opportunity for substantial input from business stakeholders and other members of the public. Input shall be solicited from statewide business

associations and from local chambers of commerce and downtown business associations in cities that levy a business and occupation tax.

(b) The ~~((municipal research council))~~ department of commerce shall contract to post the model ordinance on an internet web site and to make paper copies available for inspection upon request. The department of revenue and the department of licensing shall post copies of or links to the model ordinance on their internet web sites. Additionally, a city that imposes a business and occupation tax must make copies of its ordinance available for inspection and copying as provided in chapter 42.56 RCW.

(c) The definitions and tax classifications in the model ordinance may not be amended more frequently than once every four years, however the model ordinance may be amended at any time to comply with changes in state law. Any amendment to a mandatory provision of the model ordinance must be adopted with the same effective date by all cities.

(2) A city that imposes a business and occupation tax must adopt the mandatory provisions of the model ordinance. The following provisions are mandatory:

(a) A system of credits that meets the requirements of RCW 35.102.060 and a form for such use;

(b) A uniform, minimum small business tax threshold of at least the equivalent of twenty thousand dollars in gross income annually. A city may elect to deviate from this requirement by creating a higher threshold or exemption but it shall not deviate lower than the level required in this subsection. If a city has a small business threshold or exemption in excess of that provided in this subsection as of January 1, 2003, and chooses to deviate below the threshold or exemption level that was in place as of January 1, 2003, the city must notify all businesses licensed to do business within the city at least one hundred twenty days prior to the potential implementation of a lower threshold or exemption amount;

(c) Tax reporting frequencies that meet the requirements of RCW 35.102.070;

(d) Penalty and interest provisions that meet the requirements of RCW 35.102.080 and 35.102.090;

(e) Claim periods that meet the requirements of RCW 35.102.100;

(f) Refund provisions that meet the requirements of RCW 35.102.110; and

(g) Definitions, which at a minimum, must include the definitions enumerated in RCW 35.102.030 and 35.102.120. The definitions in chapter 82.04 RCW shall be used as the baseline for all definitions in the model ordinance, and any deviation in the model ordinance from these definitions must be described by a comment in the model ordinance.

(3) Except for the deduction required by RCW 35.102.160 and the system of credits developed to address multiple taxation under subsection (2)(a) of this section, a city may adopt its own provisions for tax exemptions, tax credits, and tax deductions.

(4) Any city that adopts an ordinance that deviates from the nonmandatory provisions of the model ordinance shall make a description of such differences available to the public, in written and electronic form.

**Sec. 707.** RCW 36.70B.220 and 2005 c 274 s 272 are each amended to read as follows:

(1) Each county and city having populations of ten thousand or more that plan under RCW 36.70A.040 shall designate permit assistance staff whose function it is to assist permit applicants. An existing employee may be designated as the permit assistance staff.

(2) Permit assistance staff designated under this section shall:

(a) Make available to permit applicants all current local government regulations and adopted policies that apply to the subject application. The local government shall provide counter copies thereof and, upon request, provide copies according to

chapter 42.56 RCW. The staff shall also publish and keep current one or more handouts containing lists and explanations of all local government regulations and adopted policies;

(b) Establish and make known to the public the means of obtaining the handouts and related information; and

(c) Provide assistance regarding the application of the local government's regulations in particular cases.

(3) Permit assistance staff designated under this section may obtain technical assistance and support in the compilation and production of the handouts under subsection (2) of this section from the ~~((municipal research council and the department of community, trade, and economic development))~~ department of commerce.

**NEW SECTION. Sec. 708.** The following acts or parts of acts are each repealed:

(1) RCW 43.110.010 (Council created--Membership--Terms--Travel expenses) and 2001 c 290 s 1, 1997 c 437 s 1, 1990 c 104 s 1, 1983 c 22 s 1, 1975-76 2nd ex.s. c 34 s 129, 1975 1st ex.s. c 218 s 1, & 1969 c 108 s 2;

(2) RCW 43.110.040 (Local government regulation and policy handouts--Technical assistance) and 1996 c 206 s 10; and

(3) RCW 43.110.070 (Hazardous liquid and gas pipeline--Model ordinance and franchise agreement) and 2000 c 191 s 8.

**NEW SECTION. Sec. 709.** (1) The municipal research council is hereby abolished and its powers, duties, and functions are hereby transferred to the department of commerce. All references to the municipal research council in the Revised Code of Washington shall be construed to mean the department of commerce.

(2)(a) All reports, documents, surveys, books, records, files, papers, or written material in the possession of the municipal research council shall be delivered to the custody of the department of commerce. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the municipal research council shall be made available to the department of commerce. All funds, credits, or other assets held by the municipal research council shall be assigned to the department of commerce.

(b) Any appropriations made to the municipal research council shall, on the effective date of this section, be transferred and credited to the department of commerce.

(c) If any question arises as to the transfer of any funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

(3) All rules and all pending business before the municipal research council shall be continued and acted upon by the department of commerce. All existing contracts and obligations shall remain in full force and shall be performed by the department of commerce.

(4) The transfer of the powers, duties, and functions of the municipal research council shall not affect the validity of any act performed before the effective date of this section.

(5) If apportionments of budgeted funds are required because of the transfers directed by this section, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

## PART VIII MISCELLANEOUS PROVISIONS

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**Sec. 801.** RCW 41.06.070 and 2009 c 33 s 36 and 2009 c 5 s 1 are each reenacted and amended to read as follows:

(1) The provisions of this chapter do not apply to:

(a) The members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers, and employees of the legislative council, joint legislative audit and review committee, statute law committee, and any interim committee of the legislature;

(b) The justices of the supreme court, judges of the court of appeals, judges of the superior courts or of the inferior courts, or to any employee of, or position in the judicial branch of state government;

(c) Officers, academic personnel, and employees of technical colleges;

(d) The officers of the Washington state patrol;

(e) Elective officers of the state;

(f) The chief executive officer of each agency;

(g) In the departments of employment security and social and health services, the director and the director's confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his or her confidential secretary, and his or her statutory assistant directors;

(h) In the case of a multimember board, commission, or committee, whether the members thereof are elected, appointed by the governor or other authority, serve ex officio, or are otherwise chosen:

(i) All members of such boards, commissions, or committees;

(ii) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: The secretary of the board, commission, or committee; the chief executive officer of the board, commission, or committee; and the confidential secretary of the chief executive officer of the board, commission, or committee;

(iii) If the members of the board, commission, or committee serve on a full-time basis: The chief executive officer or administrative officer as designated by the board, commission, or committee; and a confidential secretary to the chair of the board, commission, or committee;

(iv) If all members of the board, commission, or committee serve ex officio: The chief executive officer; and the confidential secretary of such chief executive officer;

(i) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;

(j) Assistant attorneys general;

(k) Commissioned and enlisted personnel in the military service of the state;

(l) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board;

(m) The public printer or to any employees of or positions in the state printing plant;

(n) Officers and employees of the Washington state fruit commission;

(o) Officers and employees of the Washington apple commission;

(p) Officers and employees of the Washington state dairy products commission;

(q) Officers and employees of the Washington tree fruit research commission;

(r) Officers and employees of the Washington state beef commission;

(s) Officers and employees of the Washington grain commission;

(t) Officers and employees of any commission formed under chapter 15.66 RCW;

(u) Officers and employees of agricultural commissions formed under chapter 15.65 RCW;

(v) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(w) Executive assistants for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law;

(x) In each agency with fifty or more employees: Deputy agency heads, assistant directors or division directors, and not more than three principal policy assistants who report directly to the agency head or deputy agency heads;

(y) All employees of the marine employees' commission;

(z) Staff employed by the department of ~~((community, trade, and economic development))~~ commerce to administer energy policy functions ~~((and manage));~~

~~((aa))~~ (aa) The manager of the energy facility site evaluation council ((activities under RCW 43.21F.045(2)(m)));

~~((aa))~~ (bb) A maximum of ten staff employed by the department of commerce to administer innovation and policy functions, including the three principal policy assistants exempted under (x) of this subsection;

(cc) Staff employed by Washington State University to administer energy education, applied research, and technology transfer programs under RCW 43.21F.045 as provided in RCW 28B.30.900(5).

(2) The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(a) Members of the governing board of each institution of higher education and related boards, all presidents, vice presidents, and their confidential secretaries, administrative, and personal assistants; deans, directors, and chairs; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington;

(b) The governing board of each institution, and related boards, may also exempt from this chapter classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training as determined by the board: PROVIDED, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the board under this provision;

(c) Printing craft employees in the department of printing at the University of Washington.

(3) In addition to the exemptions specifically provided by this chapter, the director of personnel may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the director of personnel stating the reasons for requesting such

exemptions. The director of personnel shall hold a public hearing, after proper notice, on requests submitted pursuant to this subsection. If the director determines that the position for which exemption is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the director of personnel shall grant the request and such determination shall be final as to any decision made before July 1, 1993. The total number of additional exemptions permitted under this subsection shall not exceed one percent of the number of employees in the classified service not including employees of institutions of higher education and related boards for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor.

The salary and fringe benefits of all positions presently or hereafter exempted except for the chief executive officer of each agency, full-time members of boards and commissions, administrative assistants and confidential secretaries in the immediate office of an elected state official, and the personnel listed in subsections (1)(j) through (v) and (y) and (2) of this section, shall be determined by the director of personnel. Changes to the classification plan affecting exempt salaries must meet the same provisions for classified salary increases resulting from adjustments to the classification plan as outlined in RCW 41.06.152.

For the twelve months following February 18, 2009, a salary or wage increase shall not be granted to any position exempt from classification under this chapter.

Any person holding a classified position subject to the provisions of this chapter shall, when and if such position is subsequently exempted from the application of this chapter, be afforded the following rights: If such person previously held permanent status in another classified position, such person shall have a right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary.

A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

NEW SECTION. **Sec. 802.** RCW 43.63A.150 is decodified.

NEW SECTION. **Sec. 803.** This act takes effect July 1, 2010."

Senators Kastama and Zarelli 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 Kastama and others to Engrossed Second Substitute House Bill No. 2658.

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 "programs;" strike the remainder of the title and insert "amending RCW 43.330.005, 43.330.007, 70.05.125, 43.330.210, 43.330.240, 19.27.070, 19.27.097, 19.27.150, 19.27A.020, 19.27A.140, 19.27A.150, 19.27A.180, 43.21F.010, 43.21F.090, 36.27.100, 80.50.030, 43.110.030, 43.110.060, 43.110.080, 43.15.020, 35.21.185,

35.102.040, and 36.70B.220; reenacting and amending RCW 43.21F.025 and 41.06.070; adding new sections to chapter 43.70 RCW; adding a new section to chapter 43.21F RCW; creating new sections; recodifying RCW 43.330.195, 43.330.200, 43.330.205, 43.330.210, 43.330.220, 43.330.225, 43.330.230, and 43.330.240; decodifying RCW 43.63A.150; repealing RCW 43.21F.015, 43.110.010, 43.110.040, and 43.110.070; providing an effective date; and providing an expiration date."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 2658 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.

#### MOTION

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

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute House Bill No. 2658 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 2658 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 45; Nays, 2; Absent, 0; Excused, 2.

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

Voting nay: Senators Holmquist and Honeyford

Excused: Senators Kline and McCaslin

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 2658 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.

#### MESSAGE FROM THE HOUSE

March 10, 2010

#### MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 5798. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 5798-S AMH CODY H5658.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 69.51A.005 and 2007 c 371 s 2 are each amended to read as follows:

The people of Washington state find that some patients with terminal or debilitating illnesses, under their ((physician's)) health care professional's care, may benefit from the medical use of marijuana. Some of the illnesses for which marijuana appears to be beneficial include chemotherapy-related nausea and vomiting in

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cancer patients; AIDS wasting syndrome; severe muscle spasms associated with multiple sclerosis and other spasticity disorders; epilepsy; acute or chronic glaucoma; and some forms of intractable pain.

The people find that humanitarian compassion necessitates that the decision to authorize the medical use of marijuana by patients with terminal or debilitating illnesses is a personal, individual decision, based upon their ~~((physician's))~~ health care professional's professional medical judgment and discretion.

Therefore, the people of the state of Washington intend that:

Qualifying patients with terminal or debilitating illnesses who, in the judgment of their ~~((physicians))~~ health care professionals, may benefit from the medical use of marijuana, shall not be found guilty of a crime under state law for their possession and limited use of marijuana;

Persons who act as designated providers to such patients shall also not be found guilty of a crime under state law for assisting with the medical use of marijuana; and

~~((Physicians))~~ Health care professionals also be excepted from liability and prosecution for the authorization of marijuana use to qualifying patients for whom, in the ~~((physician's))~~ health care professional's professional judgment, medical marijuana may prove beneficial.

**Sec. 2.** RCW 69.51A.010 and 2007 c 371 s 3 are each amended to read as follows:

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

(1) "Designated provider" means a person who:

(a) Is eighteen years of age or older;

(b) Has been designated in writing by a patient to serve as a designated provider under this chapter;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the patient for whom the individual is acting as designated provider; and

(d) Is the designated provider to only one patient at any one time.

(2) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter 18.71 RCW, a physician assistant licensed under chapter 18.71A RCW, an osteopathic physician licensed under chapter 18.57 RCW, an osteopathic physicians' assistant licensed under chapter 18.57A RCW, a naturopath licensed under chapter 18.36A RCW, or an advanced registered nurse practitioner licensed under chapter 18.79 RCW.

(3) "Medical use of marijuana" means the production, possession, or administration of marijuana, as defined in RCW 69.50.101(q), for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating illness.

~~((3))~~ (4) "Qualifying patient" means a person who:

(a) Is a patient of a ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional;

(b) Has been diagnosed by that ~~((physician))~~ health care professional as having a terminal or debilitating medical condition;

(c) Is a resident of the state of Washington at the time of such diagnosis;

(d) Has been advised by that ~~((physician))~~ health care professional about the risks and benefits of the medical use of marijuana; and

(e) Has been advised by that ~~((physician))~~ health care professional that they may benefit from the medical use of marijuana.

~~((4))~~ (5) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or

modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit valid documentation.

(6) "Terminal or debilitating medical condition" means:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders; or

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications; or

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications; or

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications; or

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications; or

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications; or

(g) Any other medical condition duly approved by the Washington state medical quality assurance commission in consultation with the board of osteopathic medicine and surgery as directed in this chapter.

~~((5))~~ (7) "Valid documentation" means:

(a) A statement signed and dated by a qualifying patient's ~~((physician, or a copy of the qualifying patient's pertinent medical records))~~ health care professional written on tamper-resistant paper, which states that, in the ~~((physician's))~~ health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(b) Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW 46.20.035(; and

(c) A copy of the physician statement described in (a) of this subsection shall have the same force and effect as the signed original).

**Sec. 3.** RCW 69.51A.030 and 2007 c 371 s 4 are each amended to read as follows:

A ~~((physician licensed under chapter 18.71 or 18.57 RCW))~~ health care professional shall be excepted from the state's criminal laws and shall not be penalized in any manner, or denied any right or privilege, for:

(1) Advising a qualifying patient about the risks and benefits of medical use of marijuana or that the qualifying patient may benefit from the medical use of marijuana where such use is within a professional standard of care or in the individual ~~((physician's))~~ health care professional's medical judgment; or

(2) Providing a qualifying patient with valid documentation, based upon the ~~((physician's))~~ health care professional's assessment of the qualifying patient's medical history and current medical condition, that the medical use of marijuana may benefit a particular qualifying patient.

**Sec. 4.** RCW 69.51A.060 and 2007 c 371 s 6 are each amended to read as follows:

(1) It shall be a misdemeanor to use or display medical marijuana in a manner or place which is open to the view of the general public.

(2) Nothing in this chapter requires any health insurance provider to be liable for any claim for reimbursement for the medical use of marijuana.

(3) Nothing in this chapter requires any ~~((physician))~~ health care professional to authorize the use of medical marijuana for a patient.

(4) Nothing in this chapter requires any accommodation of any on-site medical use of marijuana in any place of employment, in

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any school bus or on any school grounds, in any youth center, in any correctional facility, or smoking medical marijuana in any public place as that term is defined in RCW 70.160.020.

(5) It is a class C felony to fraudulently produce any record purporting to be, or tamper with the content of any record for the purpose of having it accepted as, valid documentation under RCW 69.51A.010((6)(a)) (7)(a).

(6) No person shall be entitled to claim the affirmative defense provided in RCW 69.51A.040 for engaging in the medical use of marijuana in a way that endangers the health or well-being of any person through the use of a motorized vehicle on a street, road, or highway.

**NEW SECTION. Sec. 5.** The provisions of section 2 of this act, relating to the definition of "valid documentation," apply prospectively only, not retroactively, and do not affect valid documentation obtained prior to the effective date of this section."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Kohl-Welles moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5798.

Senators Kohl-Welles and Pflug spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kohl-Welles that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 5798.

The motion by Senator Kohl-Welles carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 5798 by voice vote.

MOTION

On motion of Senator Schoesler, Senator Hewitt was excused.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 5798, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 5798, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 34; Nays, 13; Absent, 0; Excused, 2.

Voting yea: Senators Becker, Benton, Berkey, Brandland, Brown, Delvin, Eide, Fairley, Franklin, Fraser, Gordon, Hatfield, Hobbs, Jacobsen, Kastama, Kauffman, Keiser, Kilmer, Kohl-Welles, Marr, McAuliffe, McDermott, Morton, Murray, Oemig, Parlette, Pflug, Prentice, Pridemore, Ranker, Regala, Rockefeller, Shin and Tom

Voting nay: Senators Carrell, Hargrove, Haugen, Hewitt, Holmquist, Honeyford, King, Roach, Schoesler, Sheldon, Stevens, Swecker and Zarelli

Excused: Senators Kline and McCaslin

SUBSTITUTE SENATE BILL NO. 5798, as amended by the House, 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.

MESSAGE FROM THE HOUSE

MR. PRESIDENT:

The House passed SUBSTITUTE SENATE BILL NO. 6280 with the following amendment(s): 6280-S AMH CODY MORI 076

On page 3, line 11, after "to" insert "provide the techniques and services in subsection (1)(k) through (o) of this section or to"

On page 6, beginning on line 36, after "Asian" strike all material through "provider" on page 7, line 3 and insert "medical treatments, including acupuncture ((treatment shall not be continued)) , may only be continued after the patient signs a written waiver acknowledging the risks associated with the failure to pursue treatment from a primary health care provider. The waiver must also include: (a) An explanation of an East Asian medicine practitioner's scope of practice, including the services and techniques East Asian medicine practitioners are authorized to provide and (b) a statement that the services and techniques that an East Asian medicine practitioner is authorized to provide will not resolve the patient's underlying potentially serious disorder" and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Murray moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6280.

Senator Murray spoke in favor of the motion.

MOTION

On motion of Senator Marr, Senators McAuliffe and Oemig were excused.

The President declared the question before the Senate to be the motion by Senator Murray that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6280.

The motion by Senator Murray carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6280 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6280, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6280, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Ranker

Excused: Senators McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6280, as amended by the House, 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



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On motion of Senator Delvin, Senator Hewitt was excused.

MESSAGE FROM THE HOUSE

March 9, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6293. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6293-S AMH HURS WALK 122, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"**Sec. 1.** RCW 9A.76.070 and 2003 c 53 s 83 are each amended to read as follows:

(1) A person is guilty of rendering criminal assistance in the first degree if he or she renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony or equivalent juvenile offense.

(2)(a) Except as provided in (b) of this subsection, rendering criminal assistance in the first degree is a class ((€)) B felony.

(b) Rendering criminal assistance in the first degree is a gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060 and under the age of eighteen at the time of the offense.

NEW SECTION. Sec. 2. This act may be known and cited as Randy's law."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Brandland moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6293.

Senator Brandland spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Brandland that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6293.

The motion by Senator Brandland carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6293 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6293, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6293, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 42; Nays, 0; Absent, 4; Excused, 3.

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

Absent: Senators Hatfield, Hobbs, Roach and Shin

Excused: Senators Hewitt, McCaslin and Oemig

SUBSTITUTE SENATE BILL NO. 6293, as amended by the House, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

MOTION

At 4:03 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 4:13 p.m. by President Owen.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6355. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6355-S AMH WALL H5659.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

"NEW SECTION. Sec. 1. The legislature finds that the state institutions of higher education are providing a high quality education to the citizens of the state. The legislature further finds that to meet goals of the strategic master plan for higher education the state needs a higher education system that is capable of delivering many more degrees. The legislature also finds that expansion of the system should be based on the proven demands of the citizens and the marketplace, a concept called "expand on demand." The legislature further finds that the higher education coordinating board, in collaboration with the state board for community and technical colleges, the two-year and four-year institutions of higher education, and other stakeholders developed a system design plan that contains seven guiding principles for system expansion, focuses near-term enrollment growth at university branch campuses, comprehensive universities, and university centers where existing capacity is available without new state capital investment, establishes a process for evaluating major new capital expansion, and creates a fund for innovation to foster change and innovation in higher education delivery. The legislature finds that the strategies in the plan support the concept of expand on demand and would increase degree production by first reinvesting in higher education to use existing capacity while also providing long-term strategies to guide decisions on when and where to build new campuses, significantly expand existing sites, and change missions of existing institutions.

The legislature endorses the system design plan, approved by the higher education coordinating board in November 2009, and adopts the recommendations and strategies in the plan.

**Sec. 2.** RCW 28B.50.020 and 2009 c 64 s 2 are each amended to read as follows:

The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational education and training, or for adult basic skills and literacy education, by creating a new, independent system of community and technical colleges which will:

(1) Offer an open door to every citizen, regardless of his or her academic background or experience, at a cost normally within his or her economic means;

(2) Ensure that each college district shall offer thoroughly comprehensive educational, training, and service programs to meet

the needs of both the communities and students served by combining high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education, including basic skills and general, family, and workforce literacy programs and services;

(3) Provide for basic skills and literacy education, and occupational education and technical training at technical colleges in order to prepare students for careers in a competitive workforce;

(4) Provide or coordinate related and supplemental instruction for apprentices at community and technical colleges;

(5) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training, and service to meet the needs of the community and students;

(6) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training, and service programs as future needs occur; and

(7) Establish firmly that ~~((except on a pilot basis))~~ as provided under RCW 28B.50.810, community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning ~~((, and never to be considered for conversion into four year liberal arts colleges))~~.

**Sec. 3.** RCW 28B.50.810 and 2008 c 166 s 2 are each amended to read as follows:

(1) ~~((By April 2006,))~~ The college board ~~((shall))~~ may select ~~((for))~~ community or technical colleges to develop and offer programs of study leading to ~~((an))~~ applied baccalaureate degrees. ~~((At least one of the four pilot programs chosen must lead to a baccalaureate of applied science degree which builds on an associate of applied science degree. The college board shall convene a task force that includes representatives of both the community and technical colleges to develop objective selection criteria.~~

~~—(2) By February 2008, the college board shall select up to three colleges to develop and offer programs of study leading to an applied baccalaureate degree. At least one of the colleges selected must be a technical college. The college board shall use the objective selection criteria developed under subsections (1) and (3) of this section to make the selection.~~

~~—(3))~~ Colleges may submit ~~((an))~~ applications to ~~((become a pilot college under this section))~~ the college board. The college board and the higher education coordinating board shall review the applications and select the ~~((pilot))~~ colleges using objective criteria, including, but not limited to:

(a) The college demonstrates the capacity to make a long-term commitment of resources to build and sustain a high quality program;

(b) The college has or can readily engage faculty appropriately qualified to develop and deliver a high quality curriculum at the baccalaureate level;

(c) The college can demonstrate demand for the proposed program from a sufficient number of students within its service area to make the program cost-effective and feasible to operate;

(d) The college can demonstrate that employers demand the level of technical training proposed within the program, making it cost-effective for students to seek the degree; and

(e) The proposed program fills a gap in options available for students because it is not offered by a public four-year institution of higher education in the college's geographic area.

~~((4))~~ (2) A college selected ~~((as a pilot college))~~ under this section may develop the curriculum for and design and deliver

courses leading to an applied baccalaureate degree. However, degree programs developed under this section are subject to approval by the college board under RCW 28B.50.090 and by the higher education coordinating board under RCW 28B.76.230 before a ~~((pilot))~~ college may enroll students in upper division courses. ~~((A pilot college approved under subsection (1) of this section may not enroll students in upper division courses before the fall academic quarter of 2006. A pilot college approved under subsection (2) of this section may not enroll students in upper division courses before the fall academic quarter of 2009.))~~

**Sec. 4.** RCW 28B.76.020 and 1985 c 370 s 2 are each amended to read as follows:

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

(1) "Board" means the higher education coordinating board ~~((and))~~.

(2) "Four-year institutions" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College.

(3) "Major expansion" means expansion of the higher education system that requires significant new capital investment, including building new institutions, campuses, branches, or centers or conversion of existing campuses, branches, or centers that would result in a mission change.

(4) "Mission change" means a change in the level of degree awarded or institutional type not currently authorized in statute.

**Sec. 5.** RCW 28B.76.230 and 2005 c 258 s 11 are each amended to read as follows:

(1) The board shall develop a comprehensive and ongoing assessment process to analyze the need for additional degrees and programs, additional off-campus centers and locations for degree programs, and consolidation or elimination of programs by the four-year institutions. Board recommendations regarding proposed major expansion shall be limited to determinations of whether the major expansion is within the scope indicated in the most recent strategic master plan for higher education or most recent system design plan. Recommendations regarding existing capital prioritization processes are not within the scope of the evaluation of major expansion. Major expansion and proposed mission changes may be proposed by the board, any public institution of higher education, or by a state or local government.

(2) As part of the needs assessment process, the board shall examine:

(a) Projections of student, employer, and community demand for education and degrees, including liberal arts degrees, on a regional and statewide basis;

(b) Current and projected degree programs and enrollment at public and private institutions of higher education, by location and mode of service delivery; ~~((and))~~

(c) Data from the workforce training and education coordinating board and the state board for community and technical colleges on the supply and demand for workforce education and certificates and associate degrees; and

(d) Recommendations from the technology transformation task force created in chapter 407, Laws of 2009, and institutions of higher education relative to the strategic and operational use of technology in higher education. These and other reports, reviews, and audits shall allow for: The development of enterprise-wide digital information technology across educational sectors, systems, and delivery methods; the integration and streamlining of administrative tools including but not limited to student information management, financial management, payroll, human resources, data collection, reporting, and analysis; and a determination of the costs of multiple technology platforms, systems, and models.

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(3) Every two years the board shall produce, jointly with the state board for community and technical colleges and the workforce training and education coordinating board, an assessment of the number and type of higher education and training credentials required to match employer demand for a skilled and educated workforce. The assessment shall include the number of forecasted net job openings at each level of higher education and training and the number of credentials needed to match the forecast of net job openings.

(4) The board shall determine whether certain major lines of study or types of degrees, including applied degrees or research-oriented degrees, shall be assigned uniquely to some institutions or institutional sectors in order to create centers of excellence that focus resources and expertise.

(5) The following activities are subject to approval by the board:

- (a) New degree programs by a four-year institution;
- (b) Creation of any off-campus program by a four-year institution;
- (c) Purchase or lease of major off-campus facilities by a four-year institution or a community or technical college;
- (d) Creation of higher education centers and consortia;
- (e) New degree programs and creation of off-campus programs by an independent college or university in collaboration with a community or technical college; and
- (f) Applied baccalaureate degree programs developed by colleges under RCW 28B.50.810.

(6) Institutions seeking board approval under this section must demonstrate that the proposal is justified by the needs assessment developed under this section. Institutions must also demonstrate how the proposals align with or implement the statewide strategic master plan for higher education under RCW 28B.76.200.

(7) The board shall develop clear guidelines and objective decision-making criteria regarding approval of proposals under this section, which must include review and consultation with the institution and other interested agencies and individuals.

(8) The board shall periodically recommend consolidation or elimination of programs at the four-year institutions, based on the needs assessment analysis.

(9) In the case of a proposed major expansion or mission change, the needs assessment process under subsection (2) of this section constitutes a threshold inquiry. If the board determines that the need for the proposed major expansion or mission change has not been justified, the inquiry is concluded. If the board determines that the need for the proposed major expansion or mission change has been sufficiently established, the board, in consultation with any directly involved institutions and other interested agencies and individuals, shall proceed to examine the viability of the proposal using criteria including, but not limited to:

- (a) The specific scope of the project including the capital investment requirements, the number of full-time equivalent students anticipated, and the number of academic programs planned;
- (b) The existence of an efficient and sustainable financial plan;
- (c) The extent to which existing resources can be leveraged;
- (d) The current and five-year projected student population, faculty, and staff to support the proposed programs, institution, or innovation;
- (e) The plans to accommodate expected growth over a twenty-year time frame;
- (f) The extent to which new or existing partnerships and collaborations are a part of the proposal; and
- (g) The feasibility of any proposed innovations to accelerate degree production.

(10) After the board completes its evaluation of the proposed major expansion or mission change using the needs assessment

under subsection (2) of this section and viability determination under subsection (9) of this section, the board shall make a recommendation to either proceed, modify, or not proceed with the proposed major expansion or mission change. The board's recommendation shall be presented to the governor and the legislature.

**Sec. 6.** RCW 28B.120.005 and 1999 c 169 s 2 are each amended to read as follows:

The legislature finds that encouraging collaboration among the various educational sectors to meet statewide productivity and educational attainment needs as described in the system design plan developed by the higher education coordinating board will strengthen the entire educational system, kindergarten through twelfth grade and higher education. The legislature also recognizes that the most effective way to develop innovative and collaborative programs is to encourage institutions to develop them voluntarily, in line with established state goals. Through a system of competitive grants, the legislature shall encourage the development of innovative and collaborative and cost-effective solutions to issues of critical statewide need, including:

(1) Raising educational attainment and planning and piloting innovative initiatives to reach new locations and populations;

(2) Recognizing needs of special populations of students, including access and completion efforts targeting underrepresented populations;

~~((2))~~ (3) Furthering the development of learner-centered, technology-assisted course delivery, including expansion of online and hybrid coursework, open courseware, and other uses of technology in order to effectively and efficiently share costs, improve the quality of instruction and student, faculty, and administrative services, increase undergraduate and graduate student access, retention, and graduation, and to enhance transfer capability;

~~((3))~~ (4) Furthering the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates; ~~and~~

~~—(4))~~ (5) Increasing the collaboration among both public and private sector institutions of higher education; ~~and~~

(6) Improving productivity through innovations such as accelerated programs and alternative scheduling.

**Sec. 7.** RCW 28B.120.010 and 1999 c 169 s 5 are each amended to read as follows:

The Washington fund for innovation and quality in higher education program is established. The higher education coordinating board shall administer the program ~~((for the purpose of awarding grants in which a four-year institution of higher education is named as the lead institution. The state board for community and technical colleges shall administer the program for the purpose of awarding grants in which a community or technical college is named as the lead institution))~~ and shall work in close collaboration with the state board for community and technical colleges and other local and regional entities. Through this program the higher education coordinating board~~(s)~~ may award on a competitive basis incentive grants to state public or private nonprofit institutions of higher education or consortia of institutions to encourage ~~((cooperative))~~ programs designed to address specific system problems. ~~((Grants shall not exceed a two-year period.))~~ Each institution or consortia of institutions receiving the award shall contribute some financial support, either by covering part of the costs for the program during its implementation, or by assuming continuing support at the end of the grant period. Strong priority will be given to proposals that involve more than one sector of education ~~((, and to proposals that show substantive institutional commitment)).~~ Institutions are encouraged to solicit nonstate funds to support these cooperative programs.

**Sec. 8.** RCW 28B.120.020 and 1999 c 169 s 3 are each amended to read as follows:

The higher education coordinating board shall have the following powers and duties in administering the program for those proposals in which a four-year institution of higher education is named as the lead institution and fiscal agent:

- (1) To adopt rules necessary to carry out the program;
- (2) ~~((To establish one or more review committees to assist in the evaluation of proposals for funding. The review committee shall include individuals with significant experience in higher education in areas relevant to one or more of the funding period priorities and shall include representatives from both the four-year and two-year sectors of higher education;~~
- (3)) To award grants no later than September 1st in those years when funding is available by June 30th;
- ~~((4)) (3) To establish each biennium specific guidelines for submitting grant proposals consistent with RCW 28B.120.005 and consistent with the strategic master plan for higher education, the system design plan, the overall goals of the program and ((consistent with)) the guidelines established by the state board for community and technical colleges under RCW 28B.120.025. ((During the 1999-01 biennium the guidelines shall be consistent with the following desired outcomes of:~~
- ~~— (a) Minority and diversity initiatives that encourage the participation of minorities in higher education, including students with disabilities;~~
- ~~— (b) K-12 teacher preparation models that encourage collaboration between higher education and K-12 to improve the preparedness of teachers, including provisions for higher education faculty involved with teacher preparation to spend time teaching in K-12 schools;~~
- ~~— (c) Collaborative instructional programs involving K-12, community and technical colleges, and four-year institutions of higher education to develop a three-year degree program, or reduce the time to degree;~~
- ~~— (d) Contracts with public or private institutions or businesses to provide services or the development of collaborative programs;~~
- ~~— (e) Articulation and transfer activities to smooth the transfer of students from K-12 to higher education, or from the community colleges and technical colleges to four-year institutions;~~
- ~~— (f) Projects that further the development of learner-centered, technology assisted course delivery; and~~
- ~~— (g) Projects that further the development of competency-based measurements of student achievement to be used as the basis for awarding degrees and certificates.))~~

After June 30, 2001, and each biennium thereafter, the board shall determine funding priorities for ~~((collaborative))~~ proposals for the biennium in consultation with the governor, the legislature, the office of the superintendent of public instruction, the state board for community and technical colleges, the workforce training and education coordinating board, higher education institutions, educational associations, and business and community groups consistent with statewide needs;

~~((5)) (4) To solicit grant proposals and provide information to the institutions of higher education about the program; and~~

~~((6)) (5) To establish reporting, evaluation, accountability, monitoring, and dissemination requirements for the recipients of the grants awarded by the higher education coordinating board.~~

**Sec. 9.** RCW 43.88D.010 and 2008 c 205 s 2 are each amended to read as follows:

- (1) By October ~~((15th))~~ 1st of each even-numbered year, the office of financial management shall complete an objective analysis and scoring of all capital budget projects proposed by the public four-year institutions of higher education and submit the results of the scoring process to the legislative fiscal committees, the higher education coordinating board, and the four-year institutions((;

~~except that, for 2008, the office of financial management shall complete the objective analysis and scoring by November 1st)).~~ Each project must be reviewed and scored within one of the following categories, according to the project's principal purpose. Each project may be scored in only one category. The categories are:

(a) Access-related projects to accommodate enrollment growth at main and branch campuses, at existing or new university centers, or through distance learning. Growth projects should provide significant additional student capacity. Proposed projects must demonstrate that they are based on solid enrollment demand projections, more cost-effectively provide enrollment access than alternatives such as university centers and distance learning, and make cost-effective use of existing and proposed new space;

(b) Projects that replace failing permanent buildings ~~((or renovate facilities to restore building life and upgrade space to meet current program requirements)).~~ Facilities that cannot be economically renovated are considered replacement projects. ~~((Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life.))~~ New space may be programmed for the same or a different use than the space being replaced ~~((or renovated))~~ and may include additions to improve access and enhance the relationship of program or support space;

(c) Projects that renovate facilities to restore building life and upgrade space to meet current program requirements. Renovation projects should represent a complete renovation of a total facility or an isolated wing of a facility. A reasonable renovation project should cost between sixty to eighty percent of current replacement value and restore the renovated area to at least twenty-five years of useful life. New space may be programmed for the same or a different use than the space being renovated and may include additions to improve access and enhance the relationship of program or support space;

(d) Major stand-alone campus infrastructure projects;

~~((d)) (e) Projects that promote economic growth and innovation through expanded research activity. The acquisition and installation of specialized equipment is authorized under this category; and~~

~~((e)) (f) Other project categories as determined by the office of financial management in consultation with the legislative fiscal committees.~~

(2) The office of financial management, in consultation with the legislative fiscal committees ~~((and the joint legislative audit and review committee)),~~ shall establish a scoring system and process for each four-year project category that is based on the framework used in the community and technical college system of prioritization. Staff from the state board for community and technical colleges, the higher education coordinating board, and the four-year institutions shall provide technical assistance on the development of a scoring system and process.

(3) The office of financial management shall consult with the legislative fiscal committees in the scoring of four-year institution project proposals, and may also solicit participation by ~~((the joint legislative audit and review committee and))~~ independent experts.

(a) For each four-year project category, the scoring system must, at a minimum, include an evaluation of enrollment trends, reasonableness of cost, the ability of the project to enhance specific strategic master plan goals, age and condition of the facility if applicable, and impact on space utilization.

(b) Each four-year project category may include projects at the predesign, design, or construction funding phase.

(c) To the extent possible, the objective analysis and scoring system of all capital budget projects shall occur within the context of

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any and all performance agreements between the office of financial management and the governing board of a public, four-year institution of higher education that aligns goals, priorities, desired outcomes, flexibility, institutional mission, accountability, and levels of resources.

(4) In evaluating and scoring four-year institution projects, the office of financial management shall take into consideration project schedules that result in realistic, balanced, and predictable expenditure patterns over the ensuing three biennia.

(5) The office of financial management shall distribute common definitions, the scoring system, and other information required for the project proposal and scoring process as part of its biennial budget instructions (~~(, except that, for the 2009-2011 budget development cycle, this information must be distributed by July 1, 2008).~~). The office of financial management, in consultation with the legislative fiscal committees (~~and the joint legislative audit and review committee~~), shall develop common definitions that four-year institutions must use in developing their project proposals and lists under this section.

(6) In developing any scoring system for capital projects proposed by the four-year institutions, the office of financial management:

(a) Shall be provided with all required information by the four-year institutions as deemed necessary by the office of financial management;

(b) May utilize independent services to verify, sample, or evaluate information provided to the office of financial management by the four-year institutions; and

(c) Shall have full access to all data maintained by the higher education coordinating board and the joint legislative audit and review committee concerning the condition of higher education facilities.

(7) By August (~~15th~~) 1st of each even-numbered year (~~(beginning in 2008)~~) each public four-year higher education institution shall prepare and submit prioritized lists of the individual projects proposed by the institution for the ensuing six-year period in each category. (~~On a pilot basis, the office of financial management shall require one research university to prepare two separate prioritized lists for each category, one for the main campus, and one covering all of the institution's branch campuses. The office of financial management shall report to the legislative fiscal committees by December 1, 2009, on the effect of this pilot project on capital project financing for all branch campuses.~~) The lists must be submitted to the office of financial management and the legislative fiscal committees. The four-year institutions may aggregate minor works project proposals by primary purpose for ranking purposes. Proposed minor works projects must be prioritized within the aggregated proposal, and supporting documentation, including project descriptions and cost estimates, must be provided to the office of financial management and the legislative fiscal committees.

**Sec. 10.** RCW 28B.76.210 and 2008 c 205 s 4 are each amended to read as follows:

(1) The board shall collaborate with the four-year institutions including the council of presidents, the community and technical college system, and when appropriate the workforce training and education coordinating board, the superintendent of public instruction, and the independent higher educational institutions to identify budget priorities and levels of funding for higher education, including the two and four-year institutions of higher education and state financial aid programs. It is the intent of the legislature that recommendations from the board reflect not merely the sum of budget requests from multiple institutions, but prioritized funding needs for the overall system of higher education.

(2) By December of each odd-numbered year, the board shall distribute guidelines which outline the board's fiscal priorities to the institutions and the state board for community and technical colleges.

(a) The institutions and the state board for community and technical colleges shall submit an outline of their proposed operating budgets to the board no later than July 1st of each even-numbered year. Pursuant to guidelines developed by the board, operating budget outlines submitted by the institutions and the state board for community and technical colleges after January 1, 2007, shall include all policy changes and enhancements that will be requested by the institutions and the state board for community and technical colleges in their respective biennial budget requests. Operating budget outlines shall include a description of each policy enhancement, the dollar amount requested, and the fund source being requested.

(b) Capital budget outlines for the two-year institutions shall be submitted by August 15th of each even-numbered year, and shall include the prioritized ranking of the capital projects being requested, a description of each capital project, and the amount and fund source being requested.

(c) Capital budget outlines for the four-year institutions must be submitted by August 15th of each even-numbered year, and must include: The institutions' priority ranking of the project; the capital budget category within which the project will be submitted to the office of financial management in accordance with RCW 43.88D.010; a description of each capital project; and the amount and fund source being requested.

(d) The office of financial management shall reference these reporting requirements in its budget instructions.

(3) The board shall review and evaluate the operating and capital budget requests from four-year institutions and the community and technical college system based on how the requests align with the board's budget priorities, the missions of the institutions, and the statewide strategic master plan for higher education under RCW 28B.76.200.

(4) The board shall submit recommendations on the proposed operating budget and priorities to the office of financial management by October 1st of each even-numbered year, and to the legislature by January 1st of each odd-numbered year.

(5) The board's capital budget recommendations for the community and technical college system and the four-year institutions must be submitted to the office of financial management (~~(by November 15th of each even-numbered year)~~) and to the legislature by (~~(January 1st of each odd-numbered)~~) November 15th of each even-numbered year. The board's recommendations for the four-year institutions must include (~~(the relative share of the higher education capital budget that the board recommends be assigned to each project category, as defined in RCW 43.88D.010, and to minor works program and preservation)~~) a single, prioritized list of the major projects that the board recommends be funded with state bond and building account appropriations during the forthcoming fiscal biennium. In developing this single prioritized list, the board shall:

(a) Seek to identify the combination of projects that will most cost-effectively achieve the state's goals. These goals include increasing baccalaureate and graduate degree production, particularly in high-demand fields; promoting economic development through research and innovation; providing quality, affordable educational environments; preserving existing assets; and maximizing the efficient utilization of instructional space;

(b) Be guided by the objective analysis and scoring of capital budget projects completed by the office of financial management pursuant to chapter 43.88D RCW;

(c) Anticipate (i) that state bond and building account appropriations continue at the same level during each of the two

subsequent fiscal biennia as has actually been appropriated for the baccalaureate institutions during the current one; (ii) that major projects funded for design during a biennium are funded for construction during the subsequent one before state appropriations are provided for new major projects; and (iii) that minor health, safety, code, and preservation projects are funded at the same average level as in recent biennia before state appropriations are provided for new major projects.

~~((5))~~ (6) Institutions and the state board for community and technical colleges shall submit any supplemental budget requests and revisions to the board at the same time they are submitted to the office of financial management. The board shall submit recommendations on the proposed supplemental budget requests to the office of financial management by November 1st and to the legislature by January 1st.

**NEW SECTION. Sec. 11.** A new section is added to chapter 28B.20 RCW to read as follows:

(1) This section provides an alternative process for awarding contracts for construction, building, renovation, remodeling, alteration, repair, or improvement of university buildings and facilities in which critical patient care or highly specialized medical research is located. These provisions may be used, in lieu of other procedures to award contracts for such work, when the estimated cost of the work is equal to or less than five million dollars and the project involves construction, renovation, remodeling, or alteration of improvements within a building that is used directly for critical patient care or highly specialized medical research.

(2) The university may create a single critical patient care or specialized medical research facilities roster or may create multiple critical patient care or specialized medical research facilities rosters for different trade specialties or categories of anticipated work. At least once a year, the university shall publish in a newspaper of general circulation a notice of the existence of the roster or rosters and solicit a statement of qualifications from contractors who wish to be on the roster or rosters of prime contractors. In addition, qualified contractors shall be added to the roster or rosters at any time they submit a written request, necessary records, and meet the qualifications established by the university. The university may require eligible contractors desiring to be placed on a roster to keep current records of any applicable licenses, certifications, registrations, bonding, insurance, or other appropriate matters on file with the university as a condition of being placed on a roster or rosters. Placement on a roster shall be on the basis of qualifications.

(3) The public solicitation of qualifications shall include but not be limited to:

(a) A description of the types of projects to be completed and where possible may include programmatic, performance, and technical requirements and specifications;

(b) The reasons for using the critical patient care and specialized medical research roster process;

(c) A description of the qualifications to be required of a contractor, including submission of an accident prevention program;

(d) A description of the process the university will use to evaluate qualifications, including evaluation factors and the relative weight of factors;

(e) The form of the contract to be awarded;

(f) A description of the administrative process by which the required qualifications, evaluation process, and project types may be appealed; and

(g) A description of the administrative process by which decisions of the university may be appealed.

(4) The university shall establish a committee to evaluate the contractors submitting qualifications. Evaluation criteria for selection of the contractor or contractors to be included on a roster shall include, but not be limited to:

(a) Ability of a contractor's professional personnel;

(b) A contractor's past performance on similar projects, including but not limited to medical facilities, and involving either negotiated work or other public works contracts;

(c) The contractor's ability to meet time and budget requirements;

(d) The contractor's ability to provide preconstruction services, as appropriate;

(e) The contractor's capacity to successfully complete the project;

(f) The contractor's approach to executing projects;

(g) The contractor's approach to safety and the contractor's safety history; and

(h) The contractor's record of performance, integrity, judgment, and skills.

(5) Contractors meeting the evaluation committee's criteria for selection must be placed on the applicable roster or rosters.

(6) When a project is selected for delivery through this roster process, the university must establish a procedure for securing written quotations from all contractors on a roster to assure that a competitive price is established. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. Plans and specifications must be included in the invitation but may not be detailed. Award of a project must be made to the responsible bidder submitting the lowest responsive bid.

(7) The university shall make an effort to solicit proposals from certified minority or certified woman-owned contractors to the extent permitted by the Washington state civil rights act, RCW 49.60.400.

(8) Beginning in September 2010 and every other year thereafter, the university shall provide a report to the capital projects advisory review board which must, at a minimum, include a list of rosters used, contracts awarded, and a description of outreach to and participation by women and minority-owned businesses.

**NEW SECTION. Sec. 12.** A new section is added to chapter 43.131 RCW to read as follows:

The alternative process for awarding contracts established in section 11 of this act terminates June 30, 2015, as provided in section 13 of this act.

**NEW SECTION. Sec. 13.** A new section is added to chapter 43.131 RCW to read as follows:

Section 11 of this act, as now existing or hereafter amended, is repealed, effective June 30, 2016."

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kilmer moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6355.

Senators Kilmer and Becker spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kilmer that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6355.

The motion by Senator Kilmer carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6355 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6355, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6355, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 44; Nays, 0; Absent, 4; Excused, 1.

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

Absent: Senators Hobbs, Kauffman, McAuliffe and Pflug

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6355, as amended by the House, 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 Hobbs, Kauffman, McAuliffe and Pflug were excused.

MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE SENATE BILL NO. 6416 and asks the Senate to concur thereon. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved to excuse Senator Delvin and noted he had no excuse.

PERSONAL PRIVILEGE

Senator Delvin: "I come here every day to do my best, to do my duty and the gentleman, well, I don't know we call him gentleman Mr. President but well, I'll just leave it at that."

MOTION

Senator Hargrove moved that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

Senators Hargrove and Roach spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Hargrove that the Senate refuse to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and ask the House to recede therefrom.

The motion by Senator Hargrove carried and the Senate refused to concur in the House amendment(s) to Substitute Senate Bill No. 6416 and asked the House to recede therefrom by voice vote.

MESSAGE FROM THE HOUSE

March 8, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to ENGROSSED SENATE BILL NO. 6221 and asks the Senate to concur thereon. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Tom moved that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

Senators Tom spoke in favor of the motion.

The President declared the question before the Senate to be motion by Senator Tom that the Senate refuse to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and ask the House to recede therefrom.

The motion by Senator Tom carried and the Senate refused to concur in the House amendment(s) to Engrossed Senate Bill No. 6221 and asked the House to recede therefrom by voice vote.

PERSONAL PRIVILEGE

Senator Honeyford: "Thank you Mr. President. I just received an email that Senator McCaslin is out of surgery and in the ICU. He had a successful valve replacement and a double by-pass and they expect him to be in the ICU for twenty-four hours."

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6267-S2.E AMH BLAK H5701.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** Water is an essential element for economic prosperity and it generates new, family-wage jobs and state revenues. It is the intent of the legislature to provide both water right applicants and the department of ecology with the necessary tools to expedite the processing of water right applications depending on the needs of the project and agency workload.

**NEW SECTION. Sec. 2.** Sufficient resources to support the department of ecology's water resource program are essential for effective and sustainable water management that provides certainty to processed applications. The department of ecology shall review current water resource functions and fee structures, and report to the legislature and the governor by September 1, 2010, on improvements to make the program more self-sustaining and efficient.

**Sec. 3.** RCW 90.03.265 and 2003 c 70 s 6 are each amended to read as follows:

**(1)(a)** Any applicant for a new withdrawal or a change, transfer, or amendment of a water right pending before the department(;) may initiate a cost-reimbursement agreement with the department to provide expedited review of the application. A cost-reimbursement agreement may (~~only~~) be initiated under this section if the applicant agrees to pay for, or as part of a cooperative effort agrees to pay for, the cost of processing his or her application and all other

applications from the same source of supply which must be acted upon before the applicant's request because they were filed prior to the date of when the applicant filed.

(b) The requirement to pay for the cost of other applications under (a) of this subsection does not apply to an application for a new appropriation that would not diminish the water available to earlier pending applicants for new appropriations from the same source of supply.

(c) The requirement to pay for the cost of processing other applications under (a) of this subsection does not apply to an application for a change, transfer, or other amendment that would not diminish the water available to earlier pending applicants for changes or transfers from the same source of supply.

(d) In determining whether an application would not diminish the water available to earlier pending applicants, the department shall consider any water impoundment or other water resource management mitigation technique proposed by the applicant under RCW 90.03.255 or 90.44.055.

(e) The department may enter into cost-reimbursement agreements provided resources are available and shall use the process established under RCW 43.21A.690 for entering into cost-reimbursement agreements. The department's share of work related to a cost-reimbursement application, such as final certificate approval, must be prioritized within the framework of other water right processing needs and as determined by agency rule.

(f) Each individual applicant is responsible for his or her own appeal costs that may result from a water right decision made by the department under this section. In the event that the department's approval of an application under this section is appealed under chapter 43.21B RCW by a third party, the applicant for the water right in question must reimburse the department for the cost of defending the decision before the pollution control hearings board unless otherwise agreed to by the applicant and the department. If an applicant appeals either an approval or a denial made by the department under this section, the applicant is responsible only for its own appeal costs.

(2) In pursuing a cost-reimbursement project, the department must determine the source of water proposed to be diverted or withdrawn from, including the boundaries of the area that delimits the source. The department must determine if any other water right permit applications are pending from the same source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department finds they are hydraulically connected. The department shall consider technical information submitted by the applicant in making its determinations under this subsection. The department may recover from a cost-reimbursement applicant its own costs in making the same source determination under this subsection.

(3) Upon request of the applicant seeking cost-reimbursement processing, the department may elect to initiate a coordinated cost-reimbursement process. To initiate this process, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that cost-reimbursement processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on a cost-reimbursement basis;

(d) Provide an estimate of how long the cost-reimbursement process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the cost-reimbursement process.

(4) The applicant initiating the cost-reimbursement request must pay for the cost of the determination under subsections (2) and (3) of this section and other costs necessary for the initial phase of cost-reimbursement processing. The cost for each applicant for conducting processing under a coordinated cost-reimbursement agreement must be based primarily on the proportionate quantity of water requested by each applicant. The cost may be adjusted if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity.

(5)(a) Only the department may approve or deny a water right application processed under this section, and such a final decision remains solely the responsibility and function of the department. The department retains full authority to amend, refuse, or approve any work product provided by any consultant under this section. The department may recover its costs related to: (i) The review of a consultant to ensure that no conflict of interest exists; (ii) the management of consultant contracts and cost-reimbursement agreements; and (iii) the review of work products provided by participating consultants.

(b) For any cost-reimbursement process initiated under subsection (1) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned such a prequalified consultant by the department.

(c) For any coordinated cost-reimbursement process initiated under subsection (3) of this section, the applicant may, after consulting with the department, select a prequalified consultant listed by the department under subsection (7) of this section or may be assigned a prequalified consultant by the department.

(d) In lieu of having one or more of the work products performed by a prequalified consultant listed under subsection (7) of this section, the department may, at its discretion, recognize specific work completed by an applicant or an applicant's consultant prior to the initiation of cost-reimbursement processing. The department may also, at its discretion, authorize the use of such a consultant to perform a specific scope of the work that would otherwise be assigned to prequalified consultants listed under subsection (7) of this section.

(e) At any point during the cost-reimbursement process, the department may request or accept technical information, data, and analysis from the applicant or the applicant's consultant to support the cost-reimbursement process or the department's decision on the application.

(6) The department is authorized to adopt rules or guidance providing minimum qualifications and standards for any consultant's submission of work products under this section, including standards for submission of technical information, scientific analysis, work product documentation, review for conflict of interest, and report presentation that such a consultant must meet.

(7) The department must provide notice to potential consultants of the opportunity to be considered for inclusion on the list of cost-reimbursement consultants to whom work assignments will be made. The department must competitively select an appropriate number of consultants who are qualified by training and experience to investigate and make recommendations on the disposition of water right applications. The prequalified consultant list must be renewed at least every six years, though the department may add qualified cost-reimbursement consultants to the list at any time. The department must enter a master contract with each consultant selected and thereafter make work assignments based on availability and qualifications.



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(8) The department may remove any consultant from the consultant list for poor performance, malfeasance, or excessive complaints from cost-reimbursement participants. The department may interview any cost-reimbursement consultant to determine whether the person is qualified for this work, and must spot-check the work of consultants to ensure that the public is being competently served.

(9) When a prequalified cost-reimbursement consultant from the department's list described in subsection (7) of this section is assigned or selected to investigate an application or set of applications, the consultant must document its findings and recommended disposition in the form of written draft technical reports and preliminary draft reports of examination. Within two weeks of the department receiving draft technical reports and preliminary draft reports of examination, the department shall provide the applicant such documents for review and comment prior to their completion by the consultant. The department shall consider such comments by the applicant prior to the department's issuance of a draft report of examination. The department may modify the preliminary draft reports of examination submitted by the consultant. The department's decision on a permit application is final unless it is appealed to the pollution control hearings board under chapter 43.21B RCW.

(10) If an applicant elects not to participate in a cost-reimbursement process, the application remains on file with the department, retains its priority date, and may be processed under regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW.

**NEW SECTION. Sec. 4.** A new section is added to chapter 90.03 RCW to read as follows:

The water rights processing account is created in the state treasury. All receipts from the fees collected under sections 5, 7, and 12 of this act must be deposited into the account. Money in the account may be spent only after appropriation. Expenditures from the account may only be used to support the processing of water right applications for a new appropriation, change, transfer, or amendment of a water right as provided in this chapter and chapters 90.42 and 90.44 RCW or for the examination, certification, and renewal of certification of water right examiners as provided in section 7 of this act.

**NEW SECTION. Sec. 5.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in the expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that the application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 6.** A new section is added to chapter 90.03 RCW to read as follows:

The department must post notice on its web site and provide additional electronic notice and opportunity for comment to affected federally recognized tribal governments concurrently when providing notice to applicants under RCW 90.03.265 and sections 5 and 12 of this act.

**NEW SECTION. Sec. 7.** A new section is added to chapter 90.03 RCW to read as follows:

(1) The department shall establish and maintain a list of certified water right examiners. Certified water right examiners on the list are eligible to perform final proof examinations of permitted water uses leading to the issuance of a water right certificate under RCW 90.03.330. The list must be updated annually and must be made available to the public through written and electronic media.

(2) In order to qualify, an individual must be registered in Washington as a professional engineer, professional land surveyor, or registered hydrogeologist, or an individual must demonstrate at

least five years of applicable experience to the department, or be a board member of a water conservancy board. Qualified individuals must also pass a written examination prior to being certified by the department. Such an examination must be administered by either the department or an entity formally approved by the department. Each certified water right examiner must demonstrate knowledge and competency regarding:

- (a) Water law in the state of Washington;
- (b) Measurement of the flow of water through open channels and enclosed pipes;
- (c) Water use and water level reporting;
- (d) Estimation of the capacity of reservoirs and ponds;
- (e) Irrigation crop water requirements;
- (f) Aerial photo interpretation;
- (g) Legal descriptions of land parcels;
- (h) Location of land and water infrastructure through the use of maps and global positioning;
- (i) Proper construction and sealing of well bores; and
- (j) Other topics related to the preparation and certification of water rights in Washington state.

(3) Except as provided in subsection (9) of this section, upon completion of a water appropriation and putting water to beneficial use, in order to receive a final water right certificate, the permit holder must secure the services of a certified water right examiner who has been tested and certified by the department. The examiner shall carry out a final examination of the project to verify its completion and to determine and document for the permit holder and the department the amount of water that has been appropriated for beneficial use, the location of diversion or withdrawal and conveyance facilities, and the actual place of use. The examiner shall take measurements or make estimates of the maximum diversion or withdrawal, the capacity of water storage facilities, the acreage irrigated, the type and number of residences served, the type and number of stock watered, and other information relevant to making a final determination of the amount of water beneficially used. The examiner shall take photographs of the facilities to document the use or uses of water and the photographs must be submitted with the examiner's report to the department. The department shall specify the format and required content of the reports and may provide a form for that purpose.

(4) The department may suspend or revoke a certification based on poor performance, malfeasance, failure to acquire continuing education credits, or excessive complaints from the examiner's customers. The department may require the retesting of an examiner. The department may interview any examiner to determine whether the person is qualified for this work. The department shall spot-check the work of examiners to ensure that the public is being competently served. Any person aggrieved by an order of the department including the granting, denial, revocation, or suspension of a certificate issued by the department under this chapter may appeal pursuant to chapter 43.21B RCW.

(5) The decision regarding whether to issue a final water right certificate is solely the responsibility and function of the department.

(6) The department shall make its final decision under RCW 90.03.330 within sixty days of the date of receipt of the proof of examination from the certified water right examiner, unless otherwise requested by the applicant or returned for correction by the department. The department may return an initial proof of examination for correction within thirty days of the department's receipt of such initial proof from a certified water right examiner. Such proof must be returned to both the certified water right examiner and the applicant. Within thirty days of the department's receipt of such returned proof from the certified water right examiner, the department shall make its final decision under RCW 90.03.330, unless otherwise requested by the applicant.

(7) Each certified water right examiner must complete eight hours annually of qualifying continuing education in the water resources field. The department shall determine and specify the qualifying continuing education and shall inform examiners of the opportunities. The department shall track whether examiners are current in their continuing education and may suspend the certification of an examiner who has not complied with the continuing education requirement.

(8) Each certified water right examiner must be bonded for at least fifty thousand dollars.

(9) The department may waive the requirement to secure the services of a certified water right examiner in situations in which the department has already conducted a final proof of examination or finds it unnecessary for purposes of issuing a certificate of water right.

(10) The department shall establish and collect fees for the examination, certification, and renewal of certification of water right examiners. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. Pursuant to RCW 43.135.055, the department is authorized to set fees for examination, certification, and renewal of certification for water right examiners.

(11) The department may adopt rules appropriate to carry out the purposes of this section.

**Sec. 8.** RCW 90.14.065 and 1987 c 93 s 1 are each amended to read as follows:

(1)(a) Any person or entity, or successor to such person or entity, having a statement of claim on file with the water rights claims registry ~~((on April 20, 1987,))~~ may submit to the department of ecology for filing ~~((,))~~ an amendment to such a statement of claim if the submitted amendment is based on:

~~((1))~~ (i) An error in estimation of the quantity of the applicant's water claim prescribed in RCW 90.14.051 if the applicant provides reasons for the failure to claim such right in the original claim;

~~((2))~~ (ii) A change in circumstances not foreseeable at the time the original claim was filed, if such change in circumstances relates only to the manner of transportation or diversion of the water and not to the use or quantity of such water; or

~~((3))~~ (iii) The amendment is ministerial in nature.

(b) The department shall accept any such submission and file the same in the registry unless the department by written determination concludes that the requirements of (a)(i), (ii), or (iii) of this subsection ~~((1), (2), or (3) of this section))~~ have not been satisfied.

(2) In addition to subsection (1) of this section, a surface water right claim may be changed or transferred in the same manner as a permit or certificate under RCW 90.03.380, and a water right claim for groundwater may be changed or transferred as provided under RCW 90.03.380 and 90.44.100.

(3) Any person aggrieved by a determination of the department may obtain a review thereof by filing a petition for review with the pollution control hearings board within thirty days of the date of the determination by the department. The provisions of RCW 90.14.081 shall apply to any amendment filed or approved under this section.

**Sec. 9.** RCW 90.44.100 and 2009 c 183 s 16 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be

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issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

(6) This section does not apply to a water right involved in an approved local water plan created under RCW 90.92.090 or a banked water right under RCW 90.92.070.

**Sec. 10.** RCW 90.44.100 and 2003 c 329 s 3 are each amended to read as follows:

(1) After an application to, and upon the issuance by the department of an amendment to the appropriate permit or certificate of groundwater right, the holder of a valid right to withdraw public groundwaters may, without losing the holder's priority of right, construct wells or other means of withdrawal at a new location in substitution for or in addition to those at the original location, or the holder may change the manner or the place of use of the water.

(2) An amendment to construct replacement or a new additional well or wells at a location outside of the location of the original well or wells or to change the manner or place of use of the water shall be

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issued only after publication of notice of the application and findings as prescribed in the case of an original application. Such amendment shall be issued by the department only on the conditions that: (a) The additional or replacement well or wells shall tap the same body of public groundwater as the original well or wells; (b) where a replacement well or wells is approved, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) where an additional well or wells is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original permit or certificate; and (d) other existing rights shall not be impaired. The department may specify an approved manner of construction and shall require a showing of compliance with the terms of the amendment, as provided in RCW 90.44.080 in the case of an original permit.

(3) The construction of a replacement or new additional well or wells at the location of the original well or wells shall be allowed without application to the department for an amendment. However, the following apply to such a replacement or new additional well: (a) The well shall tap the same body of public groundwater as the original well or wells; (b) if a replacement well is constructed, the use of the original well or wells shall be discontinued and the original well or wells shall be properly decommissioned as required under chapter 18.104 RCW; (c) if a new additional well is constructed, the original well or wells may continue to be used, but the combined total withdrawal from the original and additional well or wells shall not enlarge the right conveyed by the original water use permit or certificate; (d) the construction and use of the well shall not interfere with or impair water rights with an earlier date of priority than the water right or rights for the original well or wells; (e) the replacement or additional well shall be located no closer than the original well to a well it might interfere with; (f) the department may specify an approved manner of construction of the well; and (g) the department shall require a showing of compliance with the conditions of this subsection (3).

(4) As used in this section, the "location of the original well or wells" of a water right permit or certificate is the area described as the point of withdrawal in the original public notice published for the application for the water right for the well. The location of the original well or wells of a water right claim filed under chapter 90.14 RCW is the area located within a one-quarter mile radius of the current well or wells.

(5) The development and use of a small irrigation impoundment, as defined in RCW 90.03.370(8), does not constitute a change or amendment for the purposes of this section. The exemption expressly provided by this subsection shall not be construed as requiring an amendment of any existing water right to enable the holder of the right to store water governed by the right.

**NEW SECTION. Sec. 11.** A new section is added to chapter 90.44 RCW to read as follows:

Applications to appropriate groundwater under a cost-reimbursement agreement must be processed in accordance with RCW 90.03.265 when an applicant requests the assignment of a cost-reimbursement consultant as provided in RCW 43.21A.690.

**NEW SECTION. Sec. 12.** A new section is added to chapter 90.44 RCW to read as follows:

(1) The department may expedite processing of applications within the same source of water on its own volition when there is interest from a sufficient number of applicants or upon receipt of written requests from at least ten percent of the applicants within the same source of water.

(2) If the conditions of subsection (1) of this section have been met and the department determines that the public interest is best

served by expediting applications within a water source, the department must notify in writing all persons who have pending applications on file for a new appropriation, change, transfer, or amendment of a water right from that water source. A water source may include surface water only, groundwater only, or surface and groundwater together if the department determines that they are hydraulically connected. The notice must be posted on the department's web site and published in a newspaper of general circulation in the area where affected properties are located. The notice must also be made individually by way of mail to:

(a) Inform those applicants that expedited processing of applications within the described water source is being initiated;

(b) Provide to individual applicants the criteria under which the applications will be examined and determined;

(c) Provide to individual applicants the estimated cost for having an application processed on an expedited basis;

(d) Provide an estimate of how long the expedited process will take before an application is approved or denied; and

(e) Provide at least sixty days for the applicants to respond in writing regarding the applicant's decision to participate in expedited processing of their applications.

(3) In addition to the application fees provided in RCW 90.03.470, the department must recover the full cost of processing all the applications from applicants who elect to participate within the water source through expedited processing fees. The department must calculate an expedited processing fee based primarily on the proportionate quantity of water requested by each applicant and may adjust the fee if it appears that an application will require a disproportionately greater amount of time and effort to process due to its complexity. Any application fees that were paid by the applicant under RCW 90.03.470 must be credited against the applicant's share of the cost of processing applications under the provisions of this section.

(4) The expedited processing fee must be collected by the department prior to the expedited processing of an application. Revenue collected from these fees must be deposited into the water rights processing account created in section 4 of this act. An applicant who has stated in writing that he or she wants his or her application processed using the expedited procedures in this section must transmit the processing fee within sixty days of the written request. Failure to do so will result in the applicant not being included in expedited processing for that water source.

(5) If an applicant elects not to participate in expedited processing, the application remains on file with the department, the applicant retains his or her priority date, and the application may be processed through regular processing, priority processing, expedited processing, coordinated cost-reimbursement processing, cost-reimbursement processing, or through conservancy board processing as authorized under chapter 90.80 RCW. Such an application may not be processed through expedited processing within twelve months after the department's issuance of decisions on participating applications at the conclusion of expedited processing unless the applicant agrees to pay the full proportionate share that would otherwise have been paid during such processing. Any proceeds collected from an applicant under this delayed entry into expedited processing shall be used to reimburse the other applicants who participated in the previous expedited processing of applications, provided sufficient proceeds remain to fully cover the department's cost of processing the delayed entry application and the department's estimated administrative costs to reimburse the previously expedited applicants.

**NEW SECTION. Sec. 13.** A new section is added to chapter 90.03 RCW to read as follows:

Nothing in this act affects or diminishes the processing of water right applications under any other existing authority, including but

not limited to existing authority for the priority processing of applications by the department.

**NEW SECTION. Sec. 14.** Section 9 of this act expires June 30, 2019.

**NEW SECTION. Sec. 15.** Section 10 of this act takes effect June 30, 2019.

**NEW SECTION. Sec. 16.** 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."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267.

Senators Rockefeller and Honeyford spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6267 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6267, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 2; Absent, 0; Excused, 1.

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

Voting nay: Senators Holmquist and Stevens

Excused: Senator McCaslin

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6267, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SUBSTITUTE SENATE BILL NO. 6604. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6604-S.E AMH MAXW MCLA 586, and passed the bill as amended by the House.

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Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 28A.655.061 and 2009 c 524 s 5 are each amended to read as follows:

(1) The high school assessment system shall include but need not be limited to the Washington assessment of student learning, opportunities for a student to retake the content areas of the assessment in which the student was not successful, and if approved by the legislature pursuant to subsection (10) of this section, one or more objective alternative assessments for a student to demonstrate achievement of state academic standards. The objective alternative assessments for each content area shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning for each content area.

(2) Subject to the conditions in this section, a certificate of academic achievement shall be obtained by most students at about the age of sixteen, and is evidence that the students have successfully met the state standard in the content areas included in the certificate. With the exception of students satisfying the provisions of RCW 28A.155.045 or 28A.655.0611, acquisition of the certificate is required for graduation from a public high school but is not the only requirement for graduation.

(3) Beginning with the graduating class of 2008, with the exception of students satisfying the provisions of RCW 28A.155.045, a student who meets the state standards on the reading, writing, and mathematics content areas of the high school Washington assessment of student learning shall earn a certificate of academic achievement. If a student does not successfully meet the state standards in one or more content areas required for the certificate of academic achievement, then the student may retake the assessment in the content area up to four times at no cost to the student. If the student successfully meets the state standards on a retake of the assessment then the student shall earn a certificate of academic achievement. Once objective alternative assessments are authorized pursuant to subsection (10) of this section, a student may use the objective alternative assessments to demonstrate that the student successfully meets the state standards for that content area if the student has taken the Washington assessment of student learning at least once. If the student successfully meets the state standards on the objective alternative assessments then the student shall earn a certificate of academic achievement.

(4) Beginning no later than with the graduating class of 2013, a student must meet the state standards in science in addition to the other content areas required under subsection (3) of this section on the Washington assessment of student learning or the objective alternative assessments in order to earn a certificate of academic achievement. The state board of education may adopt a rule that implements the requirements of this subsection (4) beginning with a graduating class before the graduating class of 2013, if the state board of education adopts the rule by September 1st of the freshman school year of the graduating class to which the requirements of this subsection (4) apply. The state board of education's authority under this subsection (4) does not alter the requirement that any change in performance standards for the tenth grade assessment must comply with RCW 28A.305.130.

(5) The state board of education may not require the acquisition of the certificate of academic achievement for students in home-based instruction under chapter 28A.200 RCW, for students enrolled in private schools under chapter 28A.195 RCW, or for students satisfying the provisions of RCW 28A.155.045.

(6) A student may retain and use the highest result from each successfully completed content area of the high school assessment.

(7) School districts must make available to students the following options:

(a) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a public school; or

(b) To retake the Washington assessment of student learning up to four times in the content areas in which the student did not meet the state standards if the student is enrolled in a high school completion program at a community or technical college. The superintendent of public instruction and the state board for community and technical colleges shall jointly identify means by which students in these programs can be assessed.

(8) Students who achieve the standard in a content area of the high school assessment but who wish to improve their results shall pay for retaking the assessment, using a uniform cost determined by the superintendent of public instruction.

(9) Opportunities to retake the assessment at least twice a year shall be available to each school district.

(10)(a) The office of the superintendent of public instruction shall develop options for implementing objective alternative assessments, which may include an appeals process for students' scores, for students to demonstrate achievement of the state academic standards. The objective alternative assessments shall be comparable in rigor to the skills and knowledge that the student must demonstrate on the Washington assessment of student learning and be objective in its determination of student achievement of the state standards. Before any objective alternative assessments in addition to those authorized in RCW 28A.655.065 or (b) of this subsection are used by a student to demonstrate that the student has met the state standards in a content area required to obtain a certificate, the legislature shall formally approve the use of any objective alternative assessments through the omnibus appropriations act or by statute or concurrent resolution.

(b)(i) A student's score on the mathematics, reading or English, or writing portion of the SAT or the ACT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standards for the certificate of academic achievement. The state board of education shall identify the scores students must achieve on the relevant portion of the SAT or ACT to meet or exceed the state standard in the relevant content area on the Washington assessment of student learning. The state board of education shall identify the first scores by December 1, 2007. After the first scores are established, the state board may increase but not decrease the scores required for students to meet or exceed the state standards.

(ii) Until August 31, 2008, a student's score on the mathematics portion of the PSAT may be used as an objective alternative assessment under this section for demonstrating that a student has met or exceeded the state standard for the certificate of academic achievement. The state board of education shall identify the score students must achieve on the mathematics portion of the PSAT to meet or exceed the state standard in that content area on the Washington assessment of student learning.

(iii) A student who scores at least a three on the grading scale of one to five for selected AP examinations may use the score as an objective alternative assessment under this section for demonstrating that a student has met or exceeded state standards for the certificate of academic achievement. A score of three on the AP examinations in calculus or statistics may be used as an alternative assessment for the mathematics portion of the Washington assessment of student learning. A score of three on the AP examinations in English language and composition may be used as an alternative assessment for the writing portion of the Washington assessment of student learning. A score of three on the AP examinations in English literature and composition, macroeconomics, microeconomics, psychology, United States history, world history, United States government and politics, or

comparative government and politics may be used as an alternative assessment for the reading portion of the Washington assessment of student learning.

(11) By December 15, 2004, the house of representatives and senate education committees shall obtain information and conclusions from recognized, independent, national assessment experts regarding the validity and reliability of the high school Washington assessment of student learning for making individual student high school graduation determinations.

(12) To help assure continued progress in academic achievement as a foundation for high school graduation and to assure that students are on track for high school graduation, each school district shall prepare plans for and notify students and their parents or legal guardians as provided in this subsection ((12)).

((a)) Student learning plans are required for eighth ~~((through twelfth))~~ grade students who were not successful on any or all of the content areas of the ~~((Washington))~~ state assessment ~~((for student learning))~~ during the previous school year or who may not be on track to graduate due to credit deficiencies or absences. The parent or legal guardian shall be notified about the information in the student learning plan, preferably through a parent conference and at least annually. To the extent feasible, schools serving English language learner students and their parents shall translate the plan into the primary language of the family. The plan shall include the following information as applicable:

((b)) (a) The student's results on the ~~((Washington))~~ state assessment ~~((of student learning))~~;

((c)) (b) If the student is in the transitional bilingual program, the score on his or her Washington language proficiency test II;

((d)) (c) Any credit deficiencies;

((e)) (d) The student's attendance rates over the previous two years;

((f)) (e) The student's progress toward meeting state and local graduation requirements;

((g)) (f) The courses, competencies, and other steps needed to be taken by the student to meet state academic standards and stay on track for graduation;

((h)) (g) Remediation strategies and alternative education options available to students, including informing students of the option to continue to receive instructional services after grade twelve or until the age of twenty-one;

((i)) (h) The alternative assessment options available to students under this section and RCW 28A.655.065;

((j)) (i) School district programs, high school courses, and career and technical education options available for students to meet graduation requirements; and

((k)) (j) Available programs offered through skill centers or community and technical colleges, including the college high school diploma options under RCW 28B.50.535.

((b) All fifth grade students who were not successful in one or more of the content areas of the fourth grade Washington assessment of student learning shall have a student learning plan.

(i) The parent or guardian of the student shall be notified, preferably through a parent conference, of the student's results on the Washington assessment of student learning, actions the school intends to take to improve the student's skills in any content area in which the student was unsuccessful, and provide strategies to help them improve their student's skills.

(ii) Progress made on the student plan shall be reported to the student's parents or guardian at least annually and adjustments to the plan made as necessary.)"

Correct the title.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

## MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604.

Senators McAuliffe, King and Hobbs spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6604 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House.

## ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6604, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

ENGROSSED SUBSTITUTE SENATE BILL NO. 6604, as amended by the House, 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.

## MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to SUBSTITUTE SENATE BILL NO. 6759. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6759-S AMH GOOD H5686.1, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"NEW SECTION. Sec. 1.** The department of early learning, the superintendent of public instruction, and thrive by five's joint early learning recommendations to the governor, and the quality education council's January 2010 recommendations to the legislature both suggested that a voluntary program of early learning should be included within the overall program of basic education. The legislature intends to examine these recommendations and Attorney General Opinion Number 8 (2009) through the development of a working group to identify and recommend a comprehensive plan.

**NEW SECTION. Sec. 2.** (1) Beginning April 1, 2010, the office of the superintendent of public instruction, with assistance and support from the department of early learning, shall convene a technical working group to develop a comprehensive plan for a

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voluntary program of early learning. The plan shall examine the opportunities and barriers of at least two options:

(a) A program of early learning under the program of basic education; and

(b) A program of early learning as an entitlement, either statutorily or constitutionally protected.

(2) The working group shall, at a minimum, include in the plan the following recommendations for each option:

(a) Criteria for eligible children;

(b) Program standards, including, but not limited to, direct services to be provided, number of hours per school year, teacher qualifications, and transportation requirements;

(c) Performance measures;

(d) Criteria for eligible providers, specifying whether or not they may be:

(i) Approved, certified, or licensed by the department of early learning; and

(ii) Public, private, nonsectarian, or sectarian organizations;

(e) Governance responsibilities for the superintendent of public instruction and the department of early learning;

(f) Funding necessary to implement a voluntary program of early learning, including, but not limited to, early learning teachers, professional development, facilities, and technical assistance;

(g) A timeline for implementation; and

(h) The early childhood education and assistance program's role in the new program of early learning.

(3) While developing the plan, the working group shall review early learning programs in Washington state, including the early childhood education and assistance program and the federal head start program, as well as programs in other states.

(4) The working group shall be composed of:

(a) At least one representative each from the following: The department of early learning, the office of the superintendent of public instruction, the nongovernmental private-public partnership created in RCW 43.215.070, and the office of the attorney general;

(b) Two members of the early learning advisory council established in RCW 43.215.090 to be appointed by the council; and

(c) Additional stakeholders with expertise in early learning to be appointed by the early learning advisory council.

(5) 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 quality education council created in RCW 28A.290.010. The working group shall submit a progress report by July 1, 2011, and final report with the plan by November 1, 2011, to the early learning advisory council and the quality education council.

**Sec. 3.** RCW 43.215.090 and 2007 c 394 s 3 are each amended to read as follows:

(1) The early learning advisory council is established to advise the department on statewide early learning ~~((community needs and progress))~~ issues that would build a comprehensive system of quality early learning programs and services for Washington's children and families by assessing needs and the availability of services, aligning resources, developing plans for data collection and professional development of early childhood educators, and establishing key performance measures.

(2) The council shall work in conjunction with the department to develop a statewide early learning plan that ~~((crosses systems and sectors to promote))~~ guides the department in promoting alignment of private and public sector actions, objectives, and resources, and ~~((to ensure))~~ ensuring school readiness.

(3) The council shall include diverse, statewide representation from public, nonprofit, and for-profit entities. Its membership shall

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reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(4) Council members shall serve two-year terms. However, to stagger the terms of the council, the initial appointments for twelve of the members shall be for one year. Once the initial one-year to two-year terms expire, all subsequent terms shall be for two years, with the terms expiring on June 30th of the applicable year. The terms shall be staggered in such a way that, where possible, the terms of members representing a specific group do not expire simultaneously.

(5) The council shall consist of not more than ~~((twenty-five))~~ twenty-three members, as follows:

(a) The governor shall appoint at least one representative from each of the following: The department, the office of financial management, the department of social and health services, the department of health, the higher education coordinating board, and the state board for community and technical colleges;

(b) One representative from the office of the superintendent of public instruction, to be appointed by the superintendent of public instruction;

(c) The governor shall appoint ~~((at least))~~ seven leaders in early childhood education, with at least one representative with experience or expertise in each of ~~the areas such as~~ the areas: Children with disabilities, the K-12 system, family day care providers, and child care centers;

(d) Two members of the house of representatives, one from each caucus, and two members of the senate, one from each caucus, to be appointed by the speaker of the house of representatives and the president of the senate, respectively;

(e) Two parents, one of whom serves on the department's parent advisory council, to be appointed by the governor;

(f) ~~((Two))~~ One representative~~((s))~~ of the private-public partnership created in RCW 43.215.070, to be appointed by the partnership board;

(g) One representative designated by sovereign tribal governments; and

(h) One representative from the Washington federation of independent schools.

(6) The council shall be cochaired by one representative of a state agency and one nongovernmental member, to be elected by the council for two-year terms.

(7) The council shall appoint two members and stakeholders with expertise in early learning to sit on the technical working group created in section 2, chapter . . . , Laws of 2010 (section 2 of the act).

(8) Each member of the board shall be compensated in accordance with RCW 43.03.240 and reimbursed for travel expenses incurred in carrying out the duties of the board in accordance with RCW 43.03.050 and 43.03.060.

~~((8))~~ (9) The department shall provide staff support to the council.

**Sec. 4.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(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 RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. 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 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 548, Laws of 2009.

(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 548, Laws of 2009. 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 submit a report to the legislature by January 1, 2012, detailing its recommendations for a comprehensive plan for a voluntary program of early learning. Before submitting the report, the council shall seek input from the early learning advisory council created in RCW 43.215.090.

(7) 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~~) council. Senate committee services and the house of representatives office of program research may provide additional staff support.

((7)) (8) 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."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MOTION

Senator Kauffman moved that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6759.

Senators Kauffman and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Kauffman that the Senate concur in the House amendment(s) to Substitute Senate Bill No. 6759.

The motion by Senator Kauffman carried and the Senate concurred in the House amendment(s) to Substitute Senate Bill No. 6759 by voice vote.

The President declared the question before the Senate to be the final passage of Substitute Senate Bill No. 6759, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute Senate Bill No. 6759, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 48; Nays, 0; Absent, 0; Excused, 1.

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

Excused: Senator McCaslin

SUBSTITUTE SENATE BILL NO. 6759, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 10, 2010

MR. PRESIDENT:

The House passed SENATE BILL NO. 6833 with the following amendment(s): 6833 AMH WAYS H5663.1

Strike everything after the enacting clause and insert the following:

"NEW SECTION. **Sec. 1.** The legislature recognizes the significant financial benefits realized by the state through consolidated cash management activities. It is the intent of this act to encourage and, when financially advantageous, to expand those activities.

**Sec. 2.** RCW 43.08.150 and 2009 c 549 s 5045 are each amended to read as follows:



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As soon as possible after the close of each calendar month, the state treasurer shall prepare a report as to the state of the general fund and every other fund under his or her control itemized as to:

- (1) The amount in the fund at the close of business at the end of the preceding month;
- (2) The amount of revenue deposited or transferred to the credit of each fund during the current month;
- (3) The amount of withdrawals or transfers from each fund during the current month; and
- (4) The amount on hand in each fund at the close of business at the end of the current month.

One copy of each report shall be provided promptly to those requesting them so long as the supply lasts. The report shall be posted on the official web site of the state treasurer. The report shall also include a graphical display of month end balances, for both the current and previous fiscal year, for the general fund, total funds in the treasury, total funds in the treasurer's trust fund, and total funds managed by the state treasurer.

**Sec. 3.** RCW 43.08.190 and 2009 c 564 s 926 are each amended to read as follows:

There is hereby created a fund within the state treasury to be known as the "state treasurer's service fund." Such fund shall be used solely for the payment of costs and expenses incurred in the operation and administration of the state treasurer's office.

Moneys shall be allocated monthly and placed in the state treasurer's service fund equivalent to a maximum of one percent of the trust and treasury average daily cash balances from the earnings generated under the authority of RCW 43.79A.040 and 43.84.080 other than earnings generated from investment of balances in funds and accounts specified in RCW 43.79A.040 ~~((or 43.84.092(4)))~~ (4)(c). The allocation shall precede the distribution of the remaining earnings as prescribed under RCW 43.79A.040 and 43.84.092. The state treasurer shall establish a uniform allocation rate ~~((based on the appropriations for the treasurer's office))~~ for all funds and accounts; except that the state treasurer may negotiate a different allocation rate with any state agency that has independent authority over funds not statutorily required to be held in the state treasury or in the custody of the state treasurer. In no event shall the rate be less than the actual costs incurred by the state treasurer's office. If no rate is separately negotiated, the default rate for any funds held shall be the rate set for funds held pursuant to statute.

During the 2009-2011 fiscal biennium, the legislature may transfer from the state treasurer's service fund to the state general fund such amounts as reflect the excess fund balance of the fund.

**Sec. 4.** RCW 43.79A.040 and 2009 c 87 s 4 are each amended to read as follows:

(1) Money in the treasurer's trust fund may be deposited, invested, and reinvested by the state treasurer in accordance with RCW 43.84.080 in the same manner and to the same extent as if the money were in the state treasury, and may be commingled with moneys in the state treasury for cash management and cash balance purposes.

(2) All income received from investment of the treasurer's trust fund shall be set aside in an account in the treasury trust fund to be known as the investment income account.

(3) The investment income account may be utilized for the payment of purchased banking services on behalf of treasurer's trust funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasurer or affected state agencies. The investment income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4)(a) Monthly, the state treasurer shall distribute the earnings credited to the investment income account to the state general fund except under ~~(b) ((and)), (c), and (d))~~ of this subsection.

(b) The following accounts and funds shall receive their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The Washington promise scholarship account, the college savings program account, the Washington advanced college tuition payment program account, the agricultural local fund, the American Indian scholarship endowment fund, the foster care scholarship endowment fund, the foster care endowed scholarship trust fund, the students with dependents grant account, the basic health plan self-insurance reserve account, the contract harvesting revolving account, the Washington state combined fund drive account, the commemorative works account, the Washington international exchange scholarship endowment fund, the toll collection account, the developmental disabilities endowment trust fund, the energy account, the fair fund, the family leave insurance account, the food animal veterinarian conditional scholarship account, the fruit and vegetable inspection account, the future teachers conditional scholarship account, the game farm alternative account, the GET ready for math and science scholarship account, the grain inspection revolving fund, the juvenile accountability incentive account, the law enforcement officers' and firefighters' plan 2 expense fund, the local tourism promotion account, the pilotage account, the produce railcar pool account, the regional transportation investment district account, the rural rehabilitation account, the stadium and exhibition center account, the youth athletic facility account, the self-insurance revolving fund, the sulfur dioxide abatement account, the children's trust fund, the Washington horse racing commission Washington bred owners' bonus fund and breeder awards account, the Washington horse racing commission class C purse fund account, the individual development account program account, the Washington horse racing commission operating account (earnings from the Washington horse racing commission operating account must be credited to the Washington horse racing commission class C purse fund account), the life sciences discovery fund, the Washington state heritage center account, the reduced cigarette ignition propensity account, and the reading achievement account. ~~((However, the earnings to be distributed shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

(c) The following accounts and funds shall receive eighty percent of their proportionate share of earnings based upon each account's or fund's average daily balance for the period: The advanced right-of-way revolving fund, the advanced environmental mitigation revolving account, the city and county advance right-of-way revolving fund, the federal narcotics asset forfeitures account, the high occupancy vehicle account, the local rail service assistance account, and the miscellaneous transportation programs account.

(d) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the custody of the state treasurer that deposits funds into a fund or account in the custody of the state treasurer pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no trust accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

**Sec. 5.** RCW 43.84.092 and 2009 c 479 s 31, 2009 c 472 s 5, and 2009 c 451 s 8 are each reenacted and amended to read as follows:

(1) All earnings of investments of surplus balances in the state treasury shall be deposited to the treasury income account, which account is hereby established in the state treasury.

(2) The treasury income account shall be utilized to pay or receive funds associated with federal programs as required by the federal cash management improvement act of 1990. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for refunds or allocations of interest earnings required by the cash management improvement act. Refunds of interest to the federal treasury required under the cash management improvement act fall under RCW 43.88.180 and shall not require appropriation. The office of financial management shall determine the amounts due to or from the federal government pursuant to the cash management improvement act. The office of financial management may direct transfers of funds between accounts as deemed necessary to implement the provisions of the cash management improvement act, and this subsection. Refunds or allocations shall occur prior to the distributions of earnings set forth in subsection (4) of this section.

(3) Except for the provisions of RCW 43.84.160, the treasury income account may be utilized for the payment of purchased banking services on behalf of treasury funds including, but not limited to, depository, safekeeping, and disbursement functions for the state treasury and affected state agencies. The treasury income account is subject in all respects to chapter 43.88 RCW, but no appropriation is required for payments to financial institutions. Payments shall occur prior to distribution of earnings set forth in subsection (4) of this section.

(4) Monthly, the state treasurer shall distribute the earnings credited to the treasury income account. The state treasurer shall credit the general fund with all the earnings credited to the treasury income account except:

(a) The following accounts and funds shall receive their proportionate share of earnings based upon each account's and fund's average daily balance for the period: The aeronautics account, the aircraft search and rescue account, the budget stabilization account, the capitol building construction account, the Cedar River channel construction and operation account, the Central Washington University capital projects account, the charitable, educational, penal and reformatory institutions account, the cleanup settlement account, the Columbia river basin water supply development account, the common school construction fund, the county arterial preservation account, the county criminal justice assistance account, the county sales and use tax equalization account, the data processing building construction account, the deferred compensation administrative account, the deferred compensation principal account, the department of licensing services account, the department of retirement systems expense account, the developmental disabilities community trust account, the drinking water assistance account, the drinking water assistance administrative account, the drinking water assistance repayment account, the Eastern Washington University capital projects account, the education construction fund, the education legacy trust account, the election account, the energy freedom account, the energy recovery act account, the essential rail assistance account, The Evergreen State College capital projects account, the federal forest revolving account, the ferry bond retirement fund, the freight congestion relief account, the freight mobility investment account, the freight mobility multimodal account, the grade crossing protective fund, the public health services account, the health system capacity account, the personal health services account, the high capacity transportation account, the state higher education construction account, the higher education construction account, the highway bond retirement fund, the highway infrastructure account, the highway safety account, the high occupancy toll lanes operations account, the industrial insurance premium refund account, the judges' retirement account, the judicial retirement administrative account, the judicial retirement principal account, the local leasehold excise tax account, the local real estate excise tax account,

the local sales and use tax account, the medical aid account, the mobile home park relocation fund, the motor vehicle fund, the motorcycle safety education account, the multimodal transportation account, the municipal criminal justice assistance account, the municipal sales and use tax equalization account, the natural resources deposit account, the oyster reserve land account, the pension funding stabilization account, the perpetual surveillance and maintenance account, the public employees' retirement system plan 1 account, the public employees' retirement system combined plan 2 and plan 3 account, the public facilities construction loan revolving account beginning July 1, 2004, the public health supplemental account, the public transportation systems account, the public works assistance account, the Puget Sound capital construction account, the Puget Sound ferry operations account, the Puyallup tribal settlement account, the real estate appraiser commission account, the recreational vehicle account, the regional mobility grant program account, the resource management cost account, the rural arterial trust account, the rural Washington loan fund, the site closure account, the small city pavement and sidewalk account, the special category C account, the special wildlife account, the state employees' insurance account, the state employees' insurance reserve account, the state investment board expense account, the state investment board commingled trust fund accounts, the state patrol highway account, the state route number 520 corridor account, the supplemental pension account, the Tacoma Narrows toll bridge account, the teachers' retirement system plan 1 account, the teachers' retirement system combined plan 2 and plan 3 account, the tobacco prevention and control account, the tobacco settlement account, the transportation 2003 account (nickel account), the transportation equipment fund, the transportation fund, the transportation improvement account, the transportation improvement board bond retirement account, the transportation infrastructure account, the transportation partnership account, the traumatic brain injury account, the tuition recovery trust fund, the University of Washington bond retirement fund, the University of Washington building account, the urban arterial trust account, the volunteer firefighters' and reserve officers' relief and pension principal fund, the volunteer firefighters' and reserve officers' administrative fund, the Washington fruit express account, the Washington judicial retirement system account, the Washington law enforcement officers' and firefighters' system plan 1 retirement account, the Washington law enforcement officers' and firefighters' system plan 2 retirement account, the Washington public safety employees' plan 2 retirement account, the Washington school employees' retirement system combined plan 2 and 3 account, the Washington state health insurance pool account, the Washington state patrol retirement account, the Washington State University building account, the Washington State University bond retirement fund, the water pollution control revolving fund, and the Western Washington University capital projects account. Earnings derived from investing balances of the agricultural permanent fund, the normal school permanent fund, the permanent common school fund, the scientific permanent fund, and the state university permanent fund shall be allocated to their respective beneficiary accounts. ~~((All earnings to be distributed under this subsection (4) shall first be reduced by the allocation to the state treasurer's service fund pursuant to RCW 43.08.190.))~~

(b) Any state agency that has independent authority over accounts or funds not statutorily required to be held in the state treasury that deposits funds into a fund or account in the state treasury pursuant to an agreement with the office of the state treasurer shall receive its proportionate share of earnings based upon each account's or fund's average daily balance for the period.

(5) In conformance with Article II, section 37 of the state Constitution, no treasury accounts or funds shall be allocated earnings without the specific affirmative directive of this section.

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NEW SECTION. Sec. 6. A new section is added to chapter 43.79 RCW to read as follows:

MOTION

By October 31st of each odd-numbered year, the state treasurer shall provide to the office of financial management and the appropriate fiscal committees of the legislature a list of any funds or accounts in the state treasury or in the custody of the state treasurer that he or she believes to be obsolete. The list must include the standard or process the treasurer used to determine whether an account is believed to be obsolete.

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

SECOND READING

NEW SECTION. Sec. 7. By June 1, 2010, the office of financial management shall provide the state treasurer with a list of all funds or accounts held locally by any state agency. By October 31, 2010, the state treasurer, working with the office of financial management, shall review all locally held accounts, other than those held by institutions of higher education, and determine whether it would be financially advantageous to the state for those accounts to instead be held in the state treasury or in the custody of the state treasurer. When the treasurer deems it financially advantageous for local accounts to be held in the custody of the state treasurer or in the state treasury, he or she is encouraged to propose executive request legislation to effect those changes."

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096, by House Committee on General Government Appropriations (originally sponsored by Representatives Hasegawa, Green, Kenney, Chase, Hudgins and Moeller)

Enhancing small business participation in state purchasing.

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 adopted:

Correct the title.  
and the same are herewith transmitted.

Strike everything after the enacting clause and insert the following:  
"NEW SECTION. Sec. 1. A new section is added to chapter 43.19 RCW to read as follows:

BARBARA BAKER, Chief Clerk

MOTION

Senator Tom moved that the Senate concur in the House amendment(s) to Senate Bill No. 6833.

(1) The legislature finds that it is in the state's economic interest and serves a public purpose to promote and facilitate the fullest possible participation by Washington businesses of all sizes in the process by which goods and services are purchased by the state. The legislature further finds that large businesses have the resources to participate fully and effectively in the state's purchasing system, and because of many factors, including economies of scale, the purchasing system tends to create a preference in favor of large businesses and to disadvantage small businesses. The legislature intends, therefore, to assist, to the maximum extent possible, small businesses to participate in order to enhance and preserve competitive enterprise and to ensure that small businesses have a fair opportunity to be awarded contracts or subcontracts for goods and services purchased by the state.

Senator Tom spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator Tom that the Senate concur in the House amendment(s) to Senate Bill No. 6833.

(2) Purchasing agencies must establish and implement a plan to increase the number of small businesses annually receiving state contracts for goods and services purchased by the state. The goal of the plan must be to have the number of small businesses receiving state contracts in 2012 be at least fifty percent higher, and in 2014 be at least one hundred percent higher, than the number of contracts awarded to small businesses in 2009.

The motion by Senator Tom carried and the Senate concurred in the House amendment(s) to Senate Bill No. 6833 by voice vote.

The President declared the question before the Senate to be the final passage of Senate Bill No. 6833, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Senate Bill No. 6833, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 31; Nays, 17; Absent, 0; Excused, 1.

(3) On July 1, 2011, and each July 1st thereafter, the department of general administration, in consultation with the department of information services and the department of transportation, shall report to the governor and the appropriate committees of the legislature on progress in carrying out the plan required by this section. Annual reports must include information about progress in increasing the number of small businesses participating in state contracts, steps taken to meet the goals of the plan, and the characteristics of small businesses that are awarded contracts.

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

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

(4) As used in this section:

Excused: Senator McCaslin

SENATE BILL NO. 6833, as amended by the House, 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.

(a) "Purchasing agencies" are limited to the department of general administration, the department of information services, and the department of transportation.

(b) "In-state business" means a business that has its principal office located in Washington and its officers domiciled in Washington.

(c) "Small business" means an in-state business, including a sole proprietorship, corporation, partnership, or other legal entity, that:

MOTION

On motion of Senator Oemig, Senator Murray was excused.

(i) Certifies, under penalty of perjury, that it is owned and operated

independently from all other businesses and has either (A) fifty or fewer employees, or (B) a gross revenue of less than seven million dollars annually as reported on its federal income tax return or its return filed with the department of revenue over the previous three consecutive years; or (ii) is certified under chapter 39.19 RCW.

(5) This section expires July 1, 2015."

Senator Kastama 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 Economic Development, Trade & Innovation to Engrossed Second Substitute House Bill No. 1096.

The motion by Senator Kastama 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 "purchasing;" strike the remainder of the title and insert "adding a new section to chapter 43.19 RCW; and providing an expiration date."

#### MOTION

On motion of Senator Kastama, the rules were suspended, Engrossed Second Substitute House Bill No. 1096 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. 1096 as amended by the Senate.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute House Bill No. 1096 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 42; Nays, 5; Absent, 0; Excused, 2.

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

Voting nay: Senators Becker, Holmquist, Honeyford, Parlette and Stevens

Excused: Senators McCaslin and Murray

ENGROSSED SECOND SUBSTITUTE HOUSE BILL NO. 1096 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. 3061, by Representative Condotta

Addressing claims of insolvent self-insurers under industrial insurance.

The measure was read the second time.

#### MOTION

On motion of Senator Kohl-Welles, the rules were suspended, House Bill No. 3061 was advanced to third reading, the second reading considered the third and the bill was placed on final passage.

Senators Kohl-Welles and Holmquist 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. 3061.

#### ROLL CALL

The Secretary called the roll on the final passage of House Bill No. 3061 and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Fairley

Excused: Senators McCaslin and Murray

HOUSE BILL NO. 3061, having received the constitutional majority, was declared passed. There being no objection, the title of the bill was ordered to stand as the title of the act.

#### MOTION

At 5:00 p.m., on motion of Senator Eide, the Senate was declared to be at ease subject to the call of the President.

#### EVENING SESSION

The Senate was called to order at 6:47 p.m. by President Owen.

#### MOTION

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

#### MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SECOND SUBSTITUTE HOUSE BILL 2436,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

#### MESSAGE FROM THE HOUSE

March 11, 2010

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MR. PRESIDENT:

The Speaker has signed:  
 SENATE BILL 6243,  
 SENATE BILL 6308,  
 SUBSTITUTE SENATE BILL 6344,  
 SUBSTITUTE SENATE BILL 6349,  
 SUBSTITUTE SENATE BILL 6350,  
 ENGROSSED SUBSTITUTE SENATE BILL 6381,  
 SENATE BILL 6401,  
 ENGROSSED SUBSTITUTE SENATE BILL 6403,  
 ENGROSSED SUBSTITUTE SENATE BILL 6468,  
 SUBSTITUTE SENATE BILL 6470,  
 ENGROSSED SUBSTITUTE SENATE BILL 6476,  
 SENATE BILL 6481,  
 SUBSTITUTE SENATE BILL 6485,  
 SUBSTITUTE SENATE BILL 6520,  
 ENGROSSED SUBSTITUTE SENATE BILL 6538,  
 SUBSTITUTE SENATE BILL 6548,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 6561,  
 SECOND SUBSTITUTE SENATE BILL 6575,  
 SECOND SUBSTITUTE SENATE BILL 6578,  
 ENGROSSED SUBSTITUTE SENATE BILL 6582,  
 SENATE BILL 6593,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL  
 6609,  
 SUBSTITUTE SENATE BILL 6611,  
 SUBSTITUTE SENATE BILL 6614,  
 SUBSTITUTE SENATE BILL 6639,  
 SUBSTITUTE SENATE BILL 6647,  
 SECOND SUBSTITUTE SENATE BILL 6667,  
 SECOND SUBSTITUTE SENATE BILL 6679,  
 SUBSTITUTE SENATE BILL 6688,  
 SUBSTITUTE SENATE BILL 6692,  
 SECOND SUBSTITUTE SENATE BILL 6702,  
 ENGROSSED SUBSTITUTE SENATE BILL 6726,  
 SENATE BILL 6804,  
 SENATE BILL 6826,  
 SUBSTITUTE SENATE BILL 6832.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment to ENGROSSED  
 SUBSTITUTE SENATE BILL NO. 6774 and passed the bill  
 without the House amendment.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 1597,  
 SUBSTITUTE HOUSE BILL 2196,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2424,

ENGROSSED SUBSTITUTE HOUSE BILL 2547,  
 SUBSTITUTE HOUSE BILL 2596,  
 SUBSTITUTE HOUSE BILL 2745,  
 SUBSTITUTE HOUSE BILL 2758,  
 SUBSTITUTE HOUSE BILL 2893,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2925,  
 SUBSTITUTE HOUSE BILL 2935,  
 HOUSE BILL 3030,  
 SUBSTITUTE HOUSE BILL 3046,  
 SECOND SUBSTITUTE HOUSE BILL 3076,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3179.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has passed:  
 SUBSTITUTE SENATE BILL 6339.  
 and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following  
 bills and passed the bills as amended by the Senate:  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 1096,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2658.  
 and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED  
 SECOND SUBSTITUTE SENATE BILL NO. 6504. Under  
 suspension of the rules, the bill was returned to second reading  
 for the purpose of an amendment. The House adopted the  
 following amendment: 6504-S2.E AMH ROSC WALK 125, and  
 passed the bill as amended by the House.

Strike everything after the enacting clause and insert the  
 following:

"Sec. 1. RCW 7.68.070 and 2009 c 38 s 1 are each amended to  
 read as follows:

The right to benefits under this chapter and the amount thereof  
 will be governed insofar as is applicable by the provisions contained  
 in chapter 51.32 RCW except as provided in this section, provided  
that no more than fifty thousand dollars shall be paid per claim:

(1) The provisions contained in RCW 51.32.015, 51.32.030,  
 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 are not  
 applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including  
 criminal acts committed between July 1, 1981, and January 1, 1983,  
 or the victim's family or dependents in case of death of the victim,  
 are entitled to benefits in accordance with this chapter, subject to the

limitations under RCW 7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation, or incitement by the victim, unless an injury resulting from a criminal act caused the death of the victim;

(b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or

(c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter(~~(=PROVIDED)~~), except that:

~~(a) Benefits for burial expenses shall not exceed ((the amount paid by the department in case of the death of a worker as provided in chapter 51.32 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;~~

~~(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;~~

~~(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;~~

~~(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;~~

~~(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.~~

~~No other benefits may be paid or payable under these circumstances)) five thousand seven hundred fifty dollars per claim; and~~

(b) An application for benefits relating to payment for burial expenses, pursuant to this subsection, must be received within twelve months of the date upon which the death of the victim is

officially recognized as a homicide. If there is a delay in the recovery of remains or the release of remains for burial, application for benefits must be received within twelve months of the date of the release of the remains for burial.

(5) The benefits established in RCW 51.32.060 for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that if a victim becomes permanently and totally disabled as a proximate result of the criminal act (~~and was not gainfully employed at the time of the criminal act~~), the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter, but shall not exceed seven thousand dollars per claim.

(7) The benefits established in RCW 51.32.090 for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act (~~(=and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act)~~).

(8) The benefits established in RCW 51.32.095 for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter(~~(=PROVIDED)~~), except that benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 are applicable to payment of benefits to, for or on behalf of victims under this chapter.

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(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) ((Except for medical benefits authorized under RCW 7.68.080, no more than thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed forty thousand dollars.

(14)) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to fifteen thousand dollars.

((~~15~~)) (14) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

((~~16~~)) (15) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services or, during the 1993-95 fiscal biennium, to the extent necessary to provide matching funds for federal medicaid reimbursement.

((~~17~~)) (16) In addition to other benefits provided under this chapter, immediate family members of a homicide victim may receive appropriate counseling to assist in dealing with the immediate, near-term consequences of the related effects of the homicide. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Payment of counseling benefits under this section may not be provided to the perpetrator of the homicide. The benefits under this subsection may be provided only with respect to homicides committed on or after July 1, 1992.

((~~18~~)) (17) A dependent mother, father, stepmother, or stepfather, as defined in RCW 51.08.050, who is a survivor of her or his child's homicide, who has been requested by a law enforcement agency or a prosecutor to assist in the judicial proceedings related to the death of the victim, and who is not domiciled in Washington state at the time of the request, may receive a lump-sum payment upon arrival in this state. Total benefits under this subsection may not exceed seven thousand five hundred dollars. If more than one dependent parent is eligible for this benefit, the lump-sum payment of seven thousand five hundred dollars shall be divided equally among the dependent parents.

((~~19~~)) (18) A victim whose crime occurred in another state who qualifies for benefits under RCW 7.68.060(4) may receive appropriate mental health counseling to address distress arising from participation in the civil commitment proceedings. Fees for counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080.

(19) A victim is not eligible for benefits under this act if such victim:

(a) Has been convicted of a felony offense within five years preceding the criminal act for which they are applying where the felony offense is a violent offense under RCW 9.94A.030 or a crime against persons under RCW 9.94A.411, or is convicted of such a

felony offense after applying; and

(b) Has not completely satisfied all legal financial obligations owed prior to applying for benefits.

**Sec. 2.** RCW 7.68.085 and 2009 c 479 s 9 are each amended to read as follows:

(1) This section has no force or effect from the effective date of this section until July 1, 2015.

(2) The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per injury or death. Payment for medical services in excess of the cap shall be made available to any innocent victim under the same conditions as other medical services and if the medical services are:

((~~+~~)) (a) Necessary for a previously accepted condition;

((~~2~~)) (b) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and

((~~3~~)) (c) Not available from an alternative source.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

**NEW SECTION. Sec. 3.** A new section is added to chapter 7.68 RCW to read as follows:

The crime victims' compensation account is created in the custody of the state treasurer. Expenditures from the account may be used only for the crime victims' compensation program under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec. 4.** RCW 9A.82.110 and 2009 c 479 s 11 are each amended to read as follows:

(1) In an action brought by the attorney general on behalf of the state under RCW 9A.82.100(1)(b)(i) in which the state prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ((state general fund)) crime victims' compensation account provided in section 3 of this act.

(2)(a) The county legislative authority may establish an antiprofitereering revolving fund to be administered by the county prosecuting attorney under the conditions and for the purposes provided by this subsection. Disbursements from the fund shall be on authorization of the county prosecuting attorney. No appropriation is required for disbursements.

(b) Any prosecution and investigation costs, including attorney's fees, recovered for the state by the county prosecuting attorney as a result of enforcement of civil and criminal statutes pertaining to any offense included in the definition of criminal profiteering, whether by final judgment, settlement, or otherwise, shall be deposited, as directed by a court of competent jurisdiction, in the fund established by this subsection. In an action brought by a prosecuting attorney on behalf of the county under RCW 9A.82.100(1)(b)(i) in which the county prevails, any payments ordered in excess of the actual damages sustained shall be deposited in the ((state general fund)) crime victims' compensation account provided in section 3 of this act.

(c) The county legislative authority may prescribe a maximum level of moneys in the antiprofitereering revolving fund. Moneys exceeding the prescribed maximum shall be transferred to the county current expense fund.

(d) The moneys in the fund shall be used by the county prosecuting attorney for the investigation and prosecution of any offense, within the jurisdiction of the county prosecuting attorney, included in the definition of criminal profiteering, including civil enforcement.

(e) If a county has not established an antiprofitteering revolving fund, any payments or forfeitures ordered to the county under this chapter shall be deposited to the county current expense fund.

**Sec. 5.** RCW 72.09.111 and 2009 c 479 s 60 are each amended to read as follows:

(1) The secretary shall deduct taxes and legal financial obligations from the gross wages, gratuities, or workers' compensation benefits payable directly to the inmate under chapter 51.32 RCW, of each inmate working in correctional industries work programs, or otherwise receiving such wages, gratuities, or benefits. The secretary shall also deduct child support payments from the gratuities of each inmate working in class II through class IV correctional industries work programs. The secretary shall develop a formula for the distribution of offender wages, gratuities, and benefits. The formula shall not reduce the inmate account below the indigency level, as defined in RCW 72.09.015.

(a) The formula shall include the following minimum deductions from class I gross wages and from all others earning at least minimum wage:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court.

(b) The formula shall include the following minimum deductions from class II gross gratuities:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Fifteen percent to the department to contribute to the cost of incarceration;

(iv) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court; and

(v) Fifteen percent for any child support owed under a support order.

(c) The formula shall include the following minimum deductions from any workers' compensation benefits paid pursuant to RCW 51.32.080:

(i) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(ii) Ten percent to a department personal inmate savings account;

(iii) Twenty percent to the department to contribute to the cost of incarceration; and

(iv) An amount equal to any legal financial obligations owed by the inmate established by an order of any Washington state superior court up to the total amount of the award.

(d) The formula shall include the following minimum deductions from class III gratuities:

(i) Five percent for the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act; and

(ii) Fifteen percent for any child support owed under a support order.

(e) The formula shall include the following minimum deduction from class IV gross gratuities:

(i) Five percent to the department to contribute to the cost of incarceration; and

(ii) Fifteen percent for any child support owed under a support order.

(2) Any person sentenced to life imprisonment without possibility of release or parole under chapter 10.95 RCW or sentenced to death shall be exempt from the requirement under subsection (1)(a)(ii), (b)(ii), or (c)(ii).

(3)(a) The department personal inmate savings account, together with any accrued interest, shall only be available to an inmate at the following times:

(i) The time of his or her release from confinement;

(ii) Prior to his or her release from confinement in order to secure approved housing; or

(iii) When the secretary determines that an emergency exists for the inmate.

(b) If funds are made available pursuant to (a)(ii) or (iii) of this subsection, the funds shall be made available to the inmate in an amount determined by the secretary.

(c) The management of classes I, II, and IV correctional industries may establish an incentive payment for offender workers based on productivity criteria. This incentive shall be paid separately from the hourly wage/gratuity rate and shall not be subject to the specified deduction for cost of incarceration.

(4)(a) Subject to availability of funds for the correctional industries program, the expansion of inmate employment in class I and class II correctional industries shall be implemented according to the following schedule:

(i) Not later than June 30, 2005, the secretary shall achieve a net increase of at least two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(ii) Not later than June 30, 2006, the secretary shall achieve a net increase of at least four hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iii) Not later than June 30, 2007, the secretary shall achieve a net increase of at least six hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(iv) Not later than June 30, 2008, the secretary shall achieve a net increase of at least nine hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(v) Not later than June 30, 2009, the secretary shall achieve a net increase of at least one thousand two hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003;

(vi) Not later than June 30, 2010, the secretary shall achieve a net increase of at least one thousand five hundred in the number of inmates employed in class I or class II correctional industries work programs above the number so employed on June 30, 2003.

(b) Failure to comply with the schedule in this subsection does not create a private right of action.

(5) In the event that the offender worker's wages, gratuity, or workers' compensation benefit is subject to garnishment for support enforcement, the ~~((state general fund))~~ crime victims' compensation account, savings, and cost of incarceration deductions shall be calculated on the net wages after taxes, legal financial obligations, and garnishment.

(6) The department shall explore other methods of recovering a portion of the cost of the inmate's incarceration and for encouraging participation in work programs, including development of incentive programs that offer inmates benefits and amenities paid for only from wages earned while working in a correctional industries work program.



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(7) The department shall develop the necessary administrative structure to recover inmates' wages and keep records of the amount inmates pay for the costs of incarceration and amenities. All funds deducted from inmate wages under subsection (1) of this section for the purpose of contributions to the cost of incarceration shall be deposited in a dedicated fund with the department and shall be used only for the purpose of enhancing and maintaining correctional industries work programs.

(8) It shall be in the discretion of the secretary to apportion the inmates between class I and class II depending on available contracts and resources.

(9) Nothing in this section shall limit the authority of the department of social and health services division of child support from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 26.23, 74.20, or 74.20A RCW.

**Sec. 6.** RCW 72.09.480 and 2009 c 479 s 61 are each amended to read as follows:

(1) Unless the context clearly requires otherwise, the definitions in this section apply to this section.

(a) "Cost of incarceration" means the cost of providing an inmate with shelter, food, clothing, transportation, supervision, and other services and supplies as may be necessary for the maintenance and support of the inmate while in the custody of the department, based on the average per inmate costs established by the department and the office of financial management.

(b) "Minimum term of confinement" means the minimum amount of time an inmate will be confined in the custody of the department, considering the sentence imposed and adjusted for the total potential earned early release time available to the inmate.

(c) "Program" means any series of courses or classes necessary to achieve a proficiency standard, certificate, or postsecondary degree.

(2) When an inmate, except as provided in subsections (4) and (8) of this section, receives any funds in addition to his or her wages or gratuities, except settlements or awards resulting from legal action, the additional funds shall be subject to the following deductions and the priorities established in chapter 72.11 RCW:

(a) Five percent to the ~~((state general fund))~~ crime victims' compensation account provided in section 3 of this act;

(b) Ten percent to a department personal inmate savings account;

(c) Twenty percent for payment of legal financial obligations for all inmates who have legal financial obligations owing in any Washington state superior court;

(d) Twenty percent for any child support owed under a support order; and

(e) Twenty percent to the department to contribute to the cost of incarceration.

(3) When an inmate, except as provided in subsection (8) of this section, receives any funds from a settlement or award resulting from a legal action, the additional funds shall be subject to the deductions in RCW 72.09.111(1)(a) and the priorities established in chapter 72.11 RCW.

(4) When an inmate who is subject to a child support order receives funds from an inheritance, the deduction required under subsection (2)(e) of this section shall only apply after the child support obligation has been paid in full.

(5) The amount deducted from an inmate's funds under subsection (2) of this section shall not exceed the department's total cost of incarceration for the inmate incurred during the inmate's minimum or actual term of confinement, whichever is longer.

(6)(a) The deductions required under subsection (2) of this section shall not apply to funds received by the department from an offender or from a third party on behalf of an offender for payment

of education or vocational programs or postsecondary education degree programs as provided in RCW 72.09.460 and 72.09.465.

(b) The deductions required under subsection (2) of this section shall not apply to funds received by the department from a third party, including but not limited to a nonprofit entity on behalf of the department's education, vocation, or postsecondary education degree programs.

(7) The deductions required under subsection (2) of this section shall not apply to any money received by the department, on behalf of an inmate, from family or other outside sources for the payment of postage expenses. Money received under this subsection may only be used for the payment of postage expenses and may not be transferred to any other account or purpose. Money that remains unused in the inmate's postage fund at the time of release shall be subject to the deductions outlined in subsection (2) of this section.

(8) When an inmate sentenced to life imprisonment without possibility of release or sentenced to death under chapter 10.95 RCW receives funds, deductions are required under subsection (2) of this section, with the exception of a personal inmate savings account under subsection (2)(b) of this section.

(9) The secretary of the department of corrections, or his or her designee, may exempt an inmate from a personal inmate savings account under subsection (2)(b) of this section if the inmate's earliest release date is beyond the inmate's life expectancy.

(10) The interest earned on an inmate savings account created as a result of the plan in section 4, chapter 325, Laws of 1999 shall be exempt from the mandatory deductions under this section and RCW 72.09.111.

(11) Nothing in this section shall limit the authority of the department of social and health services division of child support, the county clerk, or a restitution recipient from taking collection action against an inmate's moneys, assets, or property pursuant to chapter 9.94A, 26.23, 74.20, or 74.20A RCW including, but not limited to, the collection of moneys received by the inmate from settlements or awards resulting from legal action.

**NEW SECTION. Sec. 7.** A new section is added to chapter 7.68 RCW to read as follows:

(1) Within current funding levels, the department's crime victims' compensation program shall post on its public web site a report that shows the following items:

(a) The total amount of current funding available in the crime victims' compensation fund;

(b) The total amount of funding disbursed to victims in the previous thirty days; and

(c) The total amount paid in overhead and administrative costs in the previous thirty days.

(2) The information listed in subsection (1) of this section must be posted and maintained on the department's web site by July 1, 2010 and updated every thirty days thereafter.

**NEW SECTION. Sec. 8.** Sections 1 and 2 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect April 1, 2010, for all claims of victims of criminal acts occurring after July 1, 1981.

**NEW SECTION. Sec. 9.** Sections 1 and 2 of this act expire July 1, 2015."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Hargrove moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504.

Senator Hargrove spoke in favor of the motion.

MOTION

On motion of Senator Brandland, Senator Roach was excused.

MOTION

On motion of Senator Marr, Senator Kohl-Welles was excused.

The President declared the question before the Senate to be the motion by Senator Hargrove that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504.

The motion by Senator Hargrove carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6504 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6504, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6504, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 0; Excused, 3.

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

Excused: Senators Kohl-Welles, McCaslin and Roach

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6504, as amended by the House, 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 signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1597,

SUBSTITUTE HOUSE BILL 2196,  
ENGROSSED SUBSTITUTE HOUSE BILL 2424,  
ENGROSSED SUBSTITUTE HOUSE BILL 2547,  
SUBSTITUTE HOUSE BILL 2596,  
SUBSTITUTE HOUSE BILL 2745,  
SUBSTITUTE HOUSE BILL 2758,  
SUBSTITUTE HOUSE BILL 2893,  
ENGROSSED SUBSTITUTE HOUSE BILL 2925,  
SUBSTITUTE HOUSE BILL 2935,  
HOUSE BILL 3030,  
SUBSTITUTE HOUSE BILL 3046,  
SECOND SUBSTITUTE HOUSE BILL 3076,  
ENGROSSED SUBSTITUTE HOUSE BILL 3179.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House insists on its position regarding the House amendment(s) to SUBSTITUTE HOUSE BILL NO. 2776 and again asks the Senate to concur thereon. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The President declared the question before the Senate to be motion by Senator McAuliffe that the Senate recede from its position in the Senate amendment(s) to Substitute House Bill No. 2776.

The motion by Senator McAuliffe carried and the Senate receded from its position in the Senate amendment(s) to Substitute House Bill No. 2776 by voice vote.

MOTION

On motion of Senator McAuliffe, the rules were suspended and Substitute House Bill No. 2776 was returned to second reading for the purposes of amendment.

SECOND READING

SUBSTITUTE HOUSE BILL NO. 2776, by House Committee on Education Appropriations (originally sponsored by Representatives Sullivan, Priest, Maxwell, Dammeyer, Carlyle, Finn, Anderson, Eddy, Nelson, Goodman, Orwall, Hunter, Simpson, Jacks, Kagi, Ormsby, Morrell, Probst and Santos)

Regarding funding distribution formulas for K-12 education.

The measure was read the second time.

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) It is the legislature's intent to continue implementation of chapter 548, Laws of 2009, by adopting the technical details of a new distribution formula for the instructional program of basic education and authorizing a phase-in of implementation of a new distribution formula for pupil transportation, both to take effect during the 2011-2013 biennium. Unless otherwise stated, the numeric values adopted in section 2 of this act represent the translation of 2009-2010 state funding levels for the basic education act into the funding factors of the prototypical school funding formula, based on the expert advice and extensive work of the funding formula technical working group established by the legislature for this purpose. The legislature intends to continue to review and revise the formulas and may make revisions as necessary for technical purposes and consistency in the event of mathematical or other technical errors.

(2) The legislature intends that per-pupil basic education funding for a school district shall not be decreased as a result of the transition of basic education funding formulas in effect during the 2009-2011 biennium to the new funding formulas under RCW 28A.150.260 that take effect during the 2011-2013 biennium.

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(3) It is also the legislature's intent to adopt an implementation schedule for phasing-in enhancements to the baseline funding levels of 2009-10 beginning in the 2011-2013 biennium for pupil transportation, class size allocations for grades kindergarten through three, full-day kindergarten, and allocations for maintenance, supplies, and operating costs.

(4) Finally, it is the legislature's intent to adjust the timelines for other working groups so that their expertise and advice can be received as soon as possible and to make technical adjustments to certain provisions of chapter 548, Laws of 2009.

Sec. 2. RCW 28A.150.260 and 2009 c 548 s 106 are each amended to read as follows:

The purpose of this section is to provide for the allocation of state funding that the legislature deems necessary to support school districts in offering the minimum instructional program of basic education under RCW 28A.150.220. The allocation shall be determined as follows:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula for the distribution of a basic education instructional allocation for each common school district.

(2) The distribution formula under this section shall be for allocation purposes only. Except as may be required under chapter 28A.155, 28A.165, 28A.180, or ~~((28A.155))~~ 28A.185 RCW, or federal laws and regulations, nothing in this section requires school districts to use basic education instructional funds to implement a particular instructional approach or service. Nothing in this section requires school districts to maintain a particular classroom teacher-to-student ratio or other staff-to-student ratio or to use allocated funds to pay for particular types or classifications of staff. Nothing in this section entitles an individual teacher to a particular teacher planning period.

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

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

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

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

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

~~((e))~~ (4)(a) 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 ~~((a))~~ the following general education average class size ~~((as specified in the omnibus appropriations act.))~~ of full-time equivalent students per teacher:

General education average class size	
<u>Grades K</u> .....	325.23
<u>Grade 4</u> .....	27.00
<u>Grades 5-6</u> .....	27.00
<u>Grades 7-8</u> .....	28.53
<u>Grades 9-12</u> .....	28.74

(b) During the 2011-2013 biennium and beginning with schools with the highest percentage of students eligible for free and reduced-price meals in the prior school year, the general education average class size for grades K-3 shall be reduced until the average class size funded under this subsection (4) is no more than 17.0 full-time equivalent students per teacher beginning in the 2017-18 school year.

(c) The minimum allocation for each prototypical middle and high school shall also provide for full-time equivalent classroom teachers based on the following number of full-time equivalent students per teacher in career and technical education:

Career and technical education average class size	
Approved career and technical education offered at the middle school and high school level.....	26.57

Skill center programs meeting the standards established by the office of the superintendent of public instruction 22.76

(d) In addition, the omnibus appropriations act shall at a minimum specify:

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

~~((iii))~~ (ii) A specialty 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))~~ (5) 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))

	<u>Elementary School</u>	<u>Middle School</u>	<u>High School</u>
<u>Principals, assistant principals, and other certificated building-level administrators</u> .....	<u>1.253</u>	<u>1.353</u>	<u>1.880</u>
<u>Teacher librarians, a function that includes information literacy, technology, and media to support school library media programs</u> .....	<u>0.663</u>	<u>0.519</u>	<u>0.523</u>
<u>Health and social services:</u>			
<u>School nurses</u> .....	<u>0.076</u>	<u>0.060</u>	<u>0.096</u>
<u>Social workers</u> .....	<u>0.042</u>	<u>0.006</u>	<u>0.015</u>
<u>Psychologists</u> .....	<u>0.017</u>	<u>0.002</u>	<u>0.007</u>
<u>Guidance counselors, a function that includes parent outreach and graduation advising</u> .....	<u>0.493</u>	<u>1.116</u>	<u>1.909</u>
<u>Teaching assistance, including any aspect of educational instructional services provided by classified employees</u> .....	<u>0.936</u>	<u>0.700</u>	<u>0.652</u>
<u>Office support and other noninstructional aides</u> .....	<u>2.012</u>	<u>2.325</u>	<u>3.269</u>
<u>Custodians</u> .....	<u>1.657</u>	<u>1.942</u>	<u>2.965</u>
<u>Classified staff providing student and staff safety</u> .....	<u>0.079</u>	<u>0.092</u>	<u>0.141</u>
<u>Parent involvement coordinators</u> .....	<u>0.00</u>	<u>0.00</u>	<u>0.00</u>

(6)(a) The minimum staffing allocation for each school district to provide district-wide support services shall be allocated per one thousand annual average full-time equivalent students in grades K-12 as follows:

Staff per 1,000 K-12 students	Amount
Technology.....	0.628
Facilities, maintenance, and grounds.....	1.813
Warehouse, laborers, and mechanics.....	0.332

(b) The minimum allocation of staff units for each school district to support certificated and classified staffing of central administration shall be 5.30 percent of the staff units generated under subsections (4)(a) and (b) and (5) of this section and (a) of this subsection.

(7) The distribution formula shall include staffing allocations to school districts for career and technical education and skill center administrative and other school-level certificated staff, as specified in the omnibus appropriations act.

(8)(a) Except as provided in (b) of this subsection, the minimum allocation for each school district shall include allocations per annual average full-time equivalent student for the following materials, supplies, and operating costs, to be adjusted for inflation from the 2008-09 school year: ~~((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.))~~

Per annual average full-time equivalent student in grades K-12

Technology.....	\$54.43
Utilities and insurance.....	\$147.90
Curriculum and textbooks.....	\$58.44
Other supplies and library materials.....	\$124.07
Instructional professional development for certificated and classified staff.....	\$9.04
Facilities maintenance.....	\$73.27
Security and central office.....	\$50.76

(b) ~~((The annual average full-time equivalent student amounts in (a) of this subsection shall be enhanced))~~ During the 2011-2013 biennium, the minimum allocation for maintenance, supplies, and operating costs shall be increased as specified in the omnibus appropriations act. The following allocations, adjusted for inflation from the 2007-08 school year, are provided in the 2015-16 school year, after which the allocations shall be adjusted annually for inflation as specified in the omnibus appropriations act:

Per annual average full-time equivalent student in grades K-12

Technology.....	\$113.80
Utilities and insurance.....	\$309.21
Curriculum and textbooks.....	\$122.17
Other supplies and library materials.....	\$259.39
Instructional professional development for certificated and classified staff.....	\$18.89
Facilities maintenance.....	\$153.18
Security and central office administration.....	\$106.12

(9) In addition to the amounts provided in subsection (8) of this section, the omnibus appropriations act shall provide an amount based on full-time equivalent student enrollment in each of the following:

- (a) Exploratory career and technical education courses for students in grades seven through twelve;
- (b) Laboratory science courses for students in grades nine through twelve;
- (c) Preparatory career and technical education courses for students in grades nine through twelve offered in a high school; and
- (d) Preparatory career and technical education courses for students in grades eleven and twelve offered through a skill center.

~~((5))~~ (10) In addition to the allocations otherwise 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)), amounts shall be provided to support the following programs and services:

(a) To provide supplemental instruction and services for underachieving students through the learning assistance program under RCW 28A.165.005 through 28A.165.065, allocations shall be based on the ~~((percent))~~ district percentage of students in ~~((each school))~~ grades K-12 who ~~((are))~~ were eligible for free ((and) or reduced-price meals in the prior school year. 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))~~ resources to provide, on a statewide average, 1.5156 hours per week in extra instruction with a class size of fifteen learning assistance program students per teacher.

(b) To provide supplemental instruction and services for students whose primary language is other than English, allocations shall be based on the head count number of students in each school who are eligible for and enrolled in the transitional bilingual instruction program under RCW 28A.180.010 through

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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))~~ resources to provide, on a statewide average, 4.7780 hours per week in extra instruction with fifteen transitional bilingual instruction program students per teacher.

~~((6) The allocations provided under subsections (3) and (4) of this section shall be enhanced))~~ (c) To provide additional allocations to support programs for highly capable students under RCW 28A.185.010 through 28A.185.030, allocations shall be based on two and three hundred fourteen one-thousandths percent of each school district's full-time equivalent basic education enrollment. The minimum allocation for the programs shall provide ((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)) resources to provide, on a statewide average, 2.1590 hours per week in extra instruction with fifteen highly capable program students per teacher.

~~((7))~~ (11) The allocations under subsections ((3)) (4)(a) and (b), ((e)(i), and (d), (4,)) (5), (6), and (8) of this section shall be enhanced as provided under RCW 28A.150.390 on an excess cost basis to provide supplemental instructional resources for students with disabilities.

~~((8))~~ The distribution formula shall include allocations to school districts to support certificated and classified 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 subsections (3) and (6) of this section for all schools in the district.

~~((9))~~ (12)(a) For the purposes of allocations for prototypical high schools and middle schools under subsections ((3)) (4) and ((5)) (10) of this section that are based on the percent of students in the school who are eligible for free and reduced-price meals, the actual percent of such students in a school shall be adjusted by a factor identified in the omnibus appropriations act to reflect underreporting of free and reduced-price meal eligibility among middle and high school students.

~~((b))~~ Allocations or enhancements provided under subsections ~~((and))~~ (4), (7), and (9) of this section for exploratory and preparatory career and technical education courses shall be provided only for courses approved by the office of the superintendent of public instruction under chapter 28A.700 RCW.

~~((4))~~ (13)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature.

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

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

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

**Sec. 3.** RCW 28A.150.390 and 2009 c 548 s 108 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.150.260 ~~((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))~~ (4)(a) and (b), (5), (6), and (8).

(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))~~ (4)(a) and (b), (5), (6), 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.

**Sec. 4.** RCW 28A.150.315 and 2009 c 548 s 107 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. During the 2011-2013 biennium, funding shall continue to be phased-in each year until full statewide implementation of all-day kindergarten is achieved in the 2017-18 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.

**Sec. 5.** 2009 c 548 s 112 (uncodified) is amended to read as follows:

(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~~) RCW 28A.290.010 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 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~~) RCW 28A.290.010. The working group shall submit its recommendations to the legislature by December 1, 2009.

(5) After the 2009 report to the legislature, the office of financial management and the office of the superintendent of public instruction shall periodically reconvene the working group to monitor and provide advice on further development and implementation of the funding formulas under RCW 28A.150.260 and provide technical assistance to the ongoing work of the quality education council.

**Sec. 6.** 2009 c 548 s 302 (uncodified) is amended to read as follows:

(1) Beginning (~~July~~) April 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~~) chapter 548, Laws of 2009 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 also:

(a) Examine local school district capacity to address facility needs associated with phasing-in full-day kindergarten across the state and reducing class size in kindergarten through third grade; and

(b) Provide the quality education council with analysis on the potential use of local funds that may become available for redeployment and redirection as a result of increased state funding allocations for pupil transportation and maintenance, supplies, and operating costs.

(4) 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)~~) (5) 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~~) RCW 28A.290.010. The working group shall report to the legislature (~~December 1~~) June 30, 2011.

**Sec. 7.** RCW 43.41.398 and 2009 c 548 s 601 are each amended 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

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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 the superintendent of public instruction, in collaboration with 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 RCW 28A.290.010. The working group shall make an initial report to the legislature by ~~((December 1))~~ June 30, 2012, and shall include in its report recommendations for whether additional further work of the group is necessary.

**Sec. 8.** RCW 28A.160.192 and 2009 c 548 s 311 are each amended to read as follows:

(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))~~ 2011-2013 biennium and be fully implemented by the 2013-2015 biennium.

(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.)

**NEW SECTION. Sec. 9.** A new section is added to chapter 28A.160 RCW to read as follows:

(1) The superintendent of public instruction 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, 2010.

(2) Beginning in December 2010, 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.

(3) This section expires June 30, 2015.

**Sec. 10.** RCW 28A.150.410 and 2007 c 403 s 1 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a statewide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW 28A.150.260. For the purposes of this section, the staff allocations for classroom teachers, teacher librarians, guidance counselors, and student health services staff under RCW 28A.150.260 are considered allocations for certificated instructional staff.

(2) Salary allocations for state-funded basic education certificated instructional staff shall be calculated by the

superintendent of public instruction by determining the district's average salary for certificated instructional staff, using the statewide salary allocation schedule and related documents, conditions, and limitations established by the omnibus appropriations act.

(3) Beginning January 1, 1992, no more than ninety college quarter- hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the omnibus appropriations act, or any replacement schedules and documents, unless:

- (a) The employee has a master's degree; or
- (b) The credits were used in generating state salary allocations before January 1, 1992.

(4) Beginning in the 2007-08 school year, the calculation of years of service for occupational therapists, physical therapists, speech- language pathologists, audiologists, nurses, social workers, counselors, and psychologists regulated under Title 18 RCW may include experience in schools and other nonschool positions as occupational therapists, physical therapists, speech-language pathologists, audiologists, nurses, social workers, counselors, or psychologists. The calculation shall be that one year of service in a nonschool position counts as one year of service for purposes of this chapter, up to a limit of two years of nonschool service. Nonschool years of service included in calculations under this subsection shall not be applied to service credit totals for purposes of any retirement benefit under chapter 41.32, 41.35, or 41.40 RCW, or any other state retirement system benefits.

**Sec. 11.** RCW 28A.175.010 and 2005 c 207 s 3 are each amended to read as follows:

Each school district shall account for the educational progress of each of its students. To achieve this, school districts shall be required to report annually to the superintendent of public instruction:

(1) For students enrolled in each of a school district's high school programs:

- (a) The number of students who graduate in fewer than four years;
- (b) The number of students who graduate in four years;
- (c) The number of students who remain in school for more than four years but who eventually graduate and the number of students who remain in school for more than four years but do not graduate;
- (d) The number of students who transfer to other schools;
- (e) The number of students in the ninth through twelfth grade who drop out of school over a four-year period; and
- (f) The number of students whose status is unknown.

(2) Dropout rates of students in each of the grades seven through twelve.

(3) Dropout rates for student populations in each of the grades seven through twelve by:

- (a) Ethnicity;
- (b) Gender;
- (c) Socioeconomic status; and
- (d) Disability status.

(4) The causes or reasons, or both, attributed to students for having dropped out of school in grades seven through twelve.

(5) The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to assure uniformity in the information districts are required to report under subsections (1) through (4) of this section. In developing rules, the superintendent of public instruction shall consult with school districts, including administrative and counseling personnel, with regard to the methods through which information is to be collected and reported.

(6) In reporting on the causes or reasons, or both, attributed to students for having dropped out of school, school building officials shall, to the extent reasonably practical, obtain such information directly from students. In lieu of obtaining such information

directly from students, building principals and counselors shall identify the causes or reasons, or both, based on their professional judgment.

(7) The superintendent of public instruction shall report annually to the legislature the information collected under subsections (1) through (4) of this section.

(8) The Washington state institute for public policy shall calculate an annual estimate of the savings to taxpayers resulting from any improvement compared to the prior school year in the extended graduation rate, as calculated by the superintendent of public instruction. The superintendent shall include the estimate from the institute in an appendix of the report required under subsection (7) of this section, beginning with the 2010 report.

**NEW SECTION. Sec. 12.** A new section is added to chapter 28A.300 RCW to read as follows:

The office of the superintendent of public instruction shall implement and maintain an internet-based portal that provides ready public access to the state's prototypical school funding model for basic education under RCW 28A.150.260. The portal must provide citizens the opportunity to view, for each local school building, the staffing levels and other prototypical school funding elements that are assumed under the state funding formula. The portal must also provide a matrix displaying how individual school districts are deploying those same state resources through their allocation of staff and other resources to school buildings, so that citizens are able to compare the state assumptions to district allocation decisions for each local school building.

**Sec. 13.** RCW 28A.150.100 and 1990 c 33 s 103 are each amended to read as follows:

(1) For the purposes of this section and RCW 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" ~~((shall))~~ means all full-time equivalent classroom teachers, teacher librarians, guidance counselors, certificated student health services staff, and other certificated instructional staff in the following programs as defined for statewide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) ~~((In the 1988-89 school year and thereafter,))~~ Each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

**Sec. 14.** 2009 c 548 s 710 (uncodified) is amended to read as follows:

(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))~~ (4) 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))~~ (5) RCW 28A.155.180 (Safety net funds--Application--Technical assistance--Annual survey) and 2007 c 400 s 8.

**Sec. 15.** RCW 28A.290.010 and 2009 c 548 s 114 are each amended to read as follows:

(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



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recommendations on the program of basic education for the common schools. The council shall take into consideration the capacity report produced under RCW 28A.300.172 and the availability of data and progress of implementing the data systems required under RCW 28A.655.210. 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 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; and
  - (d) One nonlegislative representative from the achievement gap oversight and accountability committee established under RCW 28A.300.136, to be selected by the members of the committee.
- (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 548, Laws of 2009.
- (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 548, Laws of 2009. 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 submit a report to the governor and the legislature by December 1, 2010, that includes:

- (a) Recommendations for specific strategies, programs, and funding, including funding allocations through the funding distribution formula in RCW 28A.150.260, that are designed to close the achievement gap and increase the high school graduation rate in Washington public schools. The council shall consult with the achievement gap oversight and accountability committee and the building bridges work group in developing its recommendations; and
- (b) Recommendations for assuring adequate levels of state-funded classified staff to support essential school and district services.

(7) 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))~~ (8) 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.

**Sec. 16.** 2009 c 548 s 805 (uncodified) is amended to read as follows:

Sections 304 through 311 of this act take effect September 1, ~~(2013))~~ 2011.

NEW SECTION. **Sec. 17.** 2009 c 548 s 112, as amended by section 5 of this act, is codified as a section in chapter 28A.290 RCW.

NEW SECTION. **Sec. 18.** RCW 43.41.398 is recodified as a section in chapter 28A.400 RCW.

NEW SECTION. **Sec. 19.** Sections 2, 3, 4, 8, 10, 13, and 14 of this act take effect September 1, 2011.

NEW SECTION. **Sec. 20.** Section 6 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."

Senator McAuliffe spoke in favor of adoption of the striking amendment.

MOTION

Senator McAuliffe moved that the following amendment by Senators McAuliffe and Oemig to the striking amendment be adopted.

On page 1, line 22, after "to" strike "'adopt an implementation schedule for" and insert "begin"

On page 1, line 24, after "2009-10" strike "beginning"

Senator McAuliffe 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 Senators McAuliffe and Oemig on page 1, line 22 to the striking amendment to Substitute House Bill No. 2776.

The motion by Senator McAuliffe 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 as amended by Senator McAuliffe and others to Substitute House Bill No. 2776.

Senator Zarelli spoke against the striking amendment as amended.

#### PARLIAMENTARY INQUIRY

Senator Honeyford: "Earlier today we had a forty page striker. Today we have a twenty-five page striker. We have no effect statement on here and this shows up on our desk and we're expected to read and comprehend in five minutes what this does. There's something wrong."

Senators Honeyford and Pflug spoke against the striking amendment as amended

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 amendment was adopted:

On page 1, line 2 of the title, after "education;" strike the remainder of the title and insert "amending RCW 28A.150.260, 28A.150.390, 28A.150.315, 43.41.398, 28A.160.192, 28A.150.410, 28A.175.010, 28A.150.100, and 28A.290.010; amending 2009 c 548 s 112 (uncodified); amending 2009 c 548 s 302 (uncodified); amending 2009 c 548 s 710 (uncodified); amending 2009 c 548 s 805 (uncodified); adding a new section to chapter 28A.160 RCW; adding a new section to chapter 28A.300 RCW; adding a new section to chapter 28A.290 RCW; adding a new section to chapter 28A.400 RCW; creating a new section; recodifying RCW 43.41.398; providing effective dates; and declaring an emergency."

#### MOTION

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

Senators McAuliffe, Brown and McDermott spoke in favor of passage of the bill.

Senators King, Pflug, Schoesler and Parlette spoke against passage of the bill.

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

#### ROLL CALL

The Secretary called the roll on the final passage of Substitute House Bill No. 2776 as amended by the Senate and the bill passed the Senate by the following vote: Yeas, 30; Nays, 17; Absent, 0; Excused, 2.

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

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

Excused: Senators McCaslin and Roach

SUBSTITUTE HOUSE BILL NO. 2776 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 McDermott, the Senate advanced to the sixth order of business.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Rockefeller moved that Gubernatorial Appointment No. 9241, Alice Tawresey, as a member of the Board of Trustees, Olympic Community College District No. 3, be confirmed.

Senator Rockefeller spoke in favor of the motion.

#### MOTION

On motion of Senator Marr, Senators Eide and Pridemore were excused.

#### APPOINTMENT OF ALICE TAWRESEY

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9241, Alice Tawresey as a member of the Board of Trustees, Olympic Community College District No. 3.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9241, Alice Tawresey as a member of the Board of Trustees, Olympic Community College District No. 3 and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Zarelli

Excused: Senators Eide, McCaslin and Roach

Gubernatorial Appointment No. 9241, Alice Tawresey, having received the constitutional majority was declared confirmed as a member of the Board of Trustees, Olympic Community College District No. 3.

#### MOTION

On motion of Senator Stevens, Senators Holmquist and Zarelli were excused.

#### SECOND READING

#### CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

#### MOTION

Senator Hatfield moved that Gubernatorial Appointment No. 9155, Brian Blake, as a member of the Pacific Marine Fishery Commission, be confirmed.

Senator Hatfield spoke in favor of the motion.

#### APPOINTMENT OF BRIAN BLAKE

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The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9155, Brian Blake as a member of the Pacific Marine Fishery Commission.

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

MESSAGE FROM THE HOUSE

March 11, 2010

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9155, Brian Blake as a member of the Pacific Marine Fishery Commission and the appointment was confirmed by the following vote: Yeas, 42; Nays, 2; Absent, 1; Excused, 4.

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

Voting nay: Senators Hatfield and Tom

Absent: Senator Delvin

Excused: Senators Eide, McCaslin, Roach and Zarelli

Gubernatorial Appointment No. 9155, Brian Blake, having received the constitutional majority was declared confirmed as a member of the Pacific Marine Fishery Commission.

MR. PRESIDENT:

The House passed ENGROSSED SUBSTITUTE SENATE BILL NO. 6658 with the following amendment(s): 6658-S.E AMH ENGR H5495.E

Strike everything after the enacting clause and insert the following:

"Sec. 1. RCW 82.16.110 and 2009 c 469 s 504 are each amended to read as follows:

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

(1) "Administrator" means an owner and assignee of a community solar project as defined in subsection (2)(a)(i) of this section that is responsible for applying for the investment cost recovery incentive on behalf of the other owners and performing such administrative tasks on behalf of the other owners as may be necessary, such as receiving investment cost recovery incentive payments, and allocating and paying appropriate amounts of such payments to the other owners.

(2)(a) "Community solar project" means:

(i) A solar energy system that is capable of generating up to seventy-five kilowatts of electricity and is owned by local individuals, households, nonprofit organizations, or nonutility businesses that is placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business; ~~((or))~~

(ii) A utility-owned solar energy system that is capable of generating up to seventy-five kilowatts of electricity and that is voluntarily funded by the utility's ratepayers where, in exchange for their financial support, the utility gives contributors a payment or credit on their utility bill for the value of the electricity produced by the project; or

(iii) A solar energy system, placed on the property owned by a cooperating local governmental entity that is not in the light and power business or in the gas distribution business, that is capable of generating up to seventy-five kilowatts of electricity, and that is owned by a company whose members are each eligible for an investment cost recovery incentive for the same customer-generated electricity as provided in RCW 82.16.120.

(b) For the purposes of "community solar project" as defined in (a) of this subsection:

(i) "Company" means an entity that is:

(A)(I) A limited liability company;

(II) A cooperative formed under chapter 23.86 RCW; or

(III) A mutual corporation or association formed under chapter 24.06 RCW; and

(B) Not a "utility" as defined in this subsection (2)(b); and

(ii) "Nonprofit organization" means an organization exempt from taxation under ~~((Title))~~ 26 U.S.C. Sec. 501(c)(3) of the federal internal revenue code of 1986, as amended, as of January 1, 2009; and

~~((#))~~ (iii) "Utility" means a light and power business, an electric cooperative, or a mutual corporation that provides electricity service.

~~((2))~~ (3) "Customer-generated electricity" means a community solar project or the alternating current electricity that is generated from a renewable energy system located in Washington and installed on an individual's, businesses', or local government's real property that is also provided electricity generated by a light and power business. Except for community solar projects, a system

SECOND READING  
CONFIRMATION OF GUBERNATORIAL APPOINTMENTS

MOTION

Senator McDermott moved that Gubernatorial Appointment No. 9239, Charlene D. Strong, as a member of the Human Rights Commission, be confirmed.

Senator McDermott spoke in favor of the motion.

APPOINTMENT OF CHARLENE D. STRONG

The President declared the question before the Senate to be the confirmation of Gubernatorial Appointment No. 9239, Charlene D. Strong as a member of the Human Rights Commission.

The Secretary called the roll on the confirmation of Gubernatorial Appointment No. 9239, Charlene D. Strong as a member of the Human Rights Commission and the appointment was confirmed by the following vote: Yeas, 45; Nays, 0; Absent, 1; Excused, 3.

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

Absent: Senator Ranker

Excused: Senators McCaslin, Roach and Zarelli

Gubernatorial Appointment No. 9239, Charlene D. Strong, having received the constitutional majority was declared confirmed as a member of the Human Rights Commission.

MOTION

On motion of Senator Marr, Senator Ranker was excused.

MOTION

located on a leasehold interest does not qualify under this definition. Except for utility- owned community solar projects, "customer-generated electricity" does not include electricity generated by a light and power business with greater than one thousand megawatt hours of annual sales or a gas distribution business.

~~((3))~~ (4) "Economic development kilowatt-hour" means the actual kilowatt-hour measurement of customer-generated electricity multiplied by the appropriate economic development factor.

~~((4))~~ (5) "Local governmental entity" means any unit of local government of this state including, but not limited to, counties, cities, towns, municipal corporations, quasi-municipal corporations, special purpose districts, and school districts.

~~((5))~~ (6) "Photovoltaic cell" means a device that converts light directly into electricity without moving parts.

~~((6))~~ (7) "Renewable energy system" means a solar energy system, an anaerobic digester as defined in RCW 82.08.900, or a wind generator used for producing electricity.

~~((7))~~ (8) "Solar energy system" means any device or combination of devices or elements that rely upon direct sunlight as an energy source for use in the generation of electricity.

~~((8))~~ (9) "Solar inverter" means the device used to convert direct current to alternating current in a photovoltaic cell system.

~~((9))~~ (10) "Solar module" means the smallest nondivisible self-contained physical structure housing interconnected photovoltaic cells and providing a single direct current electrical output.

**Sec. 2.** RCW 82.16.120 and 2009 c 469 s 505 are each amended to read as follows:

(1)(a) Any individual, business, local governmental entity, not in the light and power business or in the gas distribution business, or a participant in a community solar project may apply to the light and power business serving the situs of the system, each fiscal year beginning on July 1, 2005, for an investment cost recovery incentive for each kilowatt-hour from a customer-generated electricity renewable energy system.

(No incentive may be paid for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.)

(b) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(i), the administrator must apply for the investment cost recovery incentive on behalf of each of the other owners.

(c) In the case of a community solar project as defined in RCW 82.16.110(2)(a)(iii), the company owning the community solar project must apply for the investment cost recovery incentive on behalf of each member of the company.

(2)(a) Before submitting for the first time the application for the incentive allowed under subsection (4) of this section, the applicant must submit to the department of revenue and to the climate and rural energy development center at the Washington State University, established under RCW 28B.30.642, a certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the certification must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the certification must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) That the electricity produced by the applicant meets the definition of "customer-generated electricity" and that the renewable energy system produces electricity with:

(A) Any solar inverters and solar modules manufactured in Washington state;

(B) A wind generator powered by blades manufactured in Washington state;

(C) A solar inverter manufactured in Washington state;

(D) A solar module manufactured in Washington state; or

(E) Solar or wind equipment manufactured outside of Washington state;

(iv) That the electricity can be transformed or transmitted for entry into or operation in parallel with electricity transmission and distribution systems; and

(v) The date that the renewable energy system received its final electrical permit from the applicable local jurisdiction.

(b) Within thirty days of receipt of the certification the department of revenue must notify the applicant by mail, or electronically as provided in RCW 82.32.135, whether the renewable energy system qualifies for an incentive under this section. The department may consult with the climate and rural energy development center to determine eligibility for the incentive. System certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(3)(a) By August 1st of each year application for the incentive ~~((shall))~~ must be made to the light and power business serving the situs of the system by certification in a form and manner prescribed by the department that includes, but is not limited to, the following information:

(i) The name and address of the applicant and location of the renewable energy system.

(A) If the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), the application must also include the name and address of each of the owners of the community solar project.

(B) If the applicant is a company that owns a community solar project as defined in RCW 82.16.110(2)(a)(iii), the application must also include the name and address of each member of the company;

(ii) The applicant's tax registration number;

(iii) The date of the notification from the department of revenue stating that the renewable energy system is eligible for the incentives under this section; and

(iv) A statement of the amount of kilowatt-hours generated by the renewable energy system in the prior fiscal year.

(b) Within sixty days of receipt of the incentive certification the light and power business serving the situs of the system ~~((shall))~~ must notify the applicant in writing whether the incentive payment will be authorized or denied. The business may consult with the climate and rural energy development center to determine eligibility for the incentive payment. Incentive certifications and the information contained therein are subject to disclosure under RCW 82.32.330(3)(m).

(c)(i) Persons, administrators of community solar projects, and companies receiving incentive payments ~~((shall))~~ must keep and preserve, for a period of five years, suitable records as may be necessary to determine the amount of incentive applied for and received. Such records ~~((shall))~~ must be open for examination at any time upon notice by the light and power business that made the payment or by the department. If upon examination of any records or from other information obtained by the business or department it appears that an incentive has been paid in an amount that exceeds the correct amount of incentive payable, the business may assess against the person for the amount found to have been paid in excess of the correct amount of incentive payable and ~~((shall))~~ must add thereto interest on the amount. Interest ~~((shall be))~~ is assessed in the manner that the department assesses interest upon delinquent tax under RCW 82.32.050.

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(ii) If it appears that the amount of incentive paid is less than the correct amount of incentive payable the business may authorize additional payment.

(4) Except for community solar projects, the investment cost recovery incentive may be paid fifteen cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For community solar projects, the investment cost recovery incentive may be paid thirty cents per economic development kilowatt-hour unless requests exceed the amount authorized for credit to the participating light and power business. For the purposes of this section, the rate paid for the investment cost recovery incentive may be multiplied by the following factors:

(a) For customer-generated electricity produced using solar modules manufactured in Washington state, two and four-tenths;

(b) For customer-generated electricity produced using a solar or a wind generator equipped with an inverter manufactured in Washington state, one and two-tenths;

(c) For customer-generated electricity produced using an anaerobic digester, or by other solar equipment or using a wind generator equipped with blades manufactured in Washington state, one; and

(d) For all other customer-generated electricity produced by wind, eight-tenths.

(5)(a) No individual, household, business, or local governmental entity is eligible for incentives provided under subsection (4) of this section for more than five thousand dollars per year.

(b) Except as provided in (c) through (e) of this subsection (5), each applicant in a community solar project is eligible for up to five thousand dollars per year.

(c) Where the applicant is an administrator of a community solar project as defined in RCW 82.16.110(2)(a)(i), each owner is eligible for an incentive but only in proportion to the ownership share of the project, up to five thousand dollars per year.

(d) Where the applicant is a company owning a community solar project that has applied for an investment cost recovery incentive on behalf of its members, each member of the company is eligible for an incentive that would otherwise belong to the company but only in proportion to each ownership share of the company, up to five thousand dollars per year. The company itself is not eligible for incentives under this section.

(e) In the case of a utility-owned community solar project, each ratepayer that contributes to the project is eligible for an incentive in proportion to the contribution, up to five thousand dollars per year.

(6) If requests for the investment cost recovery incentive exceed the amount of funds available for credit to the participating light and power business, the incentive payments ~~((shall))~~ must be reduced proportionately.

(7) The climate and rural energy development center at Washington State University energy program may establish guidelines and standards for technologies that are identified as Washington manufactured and therefore most beneficial to the state's environment.

(8) The environmental attributes of the renewable energy system belong to the applicant, and do not transfer to the state or the light and power business upon receipt of the investment cost recovery incentive.

(9) No incentive may be paid under this section for kilowatt-hours generated before July 1, 2005, or after June 30, 2020.

**Sec. 3.** RCW 82.16.130 and 2009 c 469 s 506 are each amended to read as follows:

(1) A light and power business shall be allowed a credit against taxes due under this chapter in an amount equal to investment cost recovery incentive payments made in any fiscal year under RCW

82.16.120. The credit shall be taken in a form and manner as required by the department. The credit under this section for the fiscal year may not exceed ~~((one))~~ one-half percent of the businesses' taxable power sales due under RCW 82.16.020(1)(b) or one hundred thousand dollars, whichever is greater. Incentive payments to participants in a utility-owned community solar project as defined in RCW 82.16.110~~((++))~~ (2)(a)(ii) may only account for up to twenty-five percent of the total allowable credit. Incentive payments to participants in a company-owned community solar project as defined in RCW 82.16.110(2)(a)(iii) may only account for up to five percent of the total allowable credit. The credit may not exceed the tax that would otherwise be due under this chapter. Refunds shall not be granted in the place of credits. Expenditures not used to earn a credit in one fiscal year may not be used to earn a credit in subsequent years.

(2) For any business that has claimed credit for amounts that exceed the correct amount of the incentive payable under RCW 82.16.120, the amount of tax against which credit was claimed for the excess payments shall be immediately due and payable. The department shall assess interest but not penalties on the taxes against which the credit was claimed. Interest shall be assessed at the rate provided for delinquent excise taxes under chapter 82.32 RCW, retroactively to the date the credit was claimed, and shall accrue until the taxes against which the credit was claimed are repaid.

(3) The right to earn tax credits under this section expires June 30, 2020. Credits may not be claimed after June 30, 2021.

**Sec. 4.** RCW 82.16.140 and 2005 c 300 s 5 are each amended to read as follows:

(1) Using existing sources of information, the department ~~((shall))~~ must report to the house appropriations committee, the house committee dealing with energy issues, the senate committee on ways and means, and the senate committee dealing with energy issues by December 1, ~~((2009))~~ 2014. The report ~~((shall))~~ must measure the impacts of ~~((chapter 300, Laws of 2005))~~ RCW 82.16.110 through 82.16.130, including the total number of solar energy system manufacturing companies in the state, any change in the number of solar energy system manufacturing companies in the state since July 1, 2005, and, where relevant, the effect on job creation, the number of jobs created for Washington residents, and such other factors as the department selects.

(2) The department ~~((shall))~~ may not conduct any new surveys to provide the report in subsection (1) of this section.

(3) For the purposes of this section, "company" has the same meaning as provided in RCW 82.04.030.

**NEW SECTION. Sec. 5.** A new section is added to chapter 82.16 RCW to read as follows:

Owners of a community solar project as defined in RCW 82.16.110(2)(a) (i) and (iii) must agree to hold harmless the light and power business serving the situs of the system, including any employee, for the good faith reliance on the information contained in an application or certification submitted by an administrator or company. In addition, the light and power business and any employee is immune from civil liability for the good faith reliance on any misstatement that may be made in such application or certification. Should a light and power business or employee prevail upon the defense provided in this section, it is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense."

Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator Rockefeller moved that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658.

Senators Rockefeller and Honeyford spoke in favor of passage of the motion.

The President declared the question before the Senate to be the motion by Senator Rockefeller that the Senate concur in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658.

The motion by Senator Rockefeller carried and the Senate concurred in the House amendment(s) to Engrossed Substitute Senate Bill No. 6658 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House.

#### ROLL CALL

The Secretary called the roll on the final passage of Engrossed Substitute Senate Bill No. 6658, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 0; Absent, 1; Excused, 2.

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

Absent: Senator Delvin

Excused: Senators McCaslin and Roach

ENGROSSED SUBSTITUTE SENATE BILL NO. 6658, as amended by the House, 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.

#### MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) 6345-S AMH ROAD MUNN 281 to SUBSTITUTE SENATE BILL NO. 6345 and passed said bill without the House amendment(s), and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

#### SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 5798,  
ENGROSSED SUBSTITUTE SENATE BILL 5902,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL 6267,  
SUBSTITUTE SENATE BILL 6280,  
SUBSTITUTE SENATE BILL 6293,  
SUBSTITUTE SENATE BILL 6339,  
SUBSTITUTE SENATE BILL 6355,  
ENGROSSED SUBSTITUTE SENATE BILL 6604,  
ENGROSSED SENATE BILL 6610,  
SUBSTITUTE SENATE BILL 6759,  
ENGROSSED SUBSTITUTE SENATE BILL 6774,  
SENATE BILL 6833.

#### MOTION

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

#### SECOND SUPPLEMENTAL AND FIRST READING

SCR 8412 by Senators Brown and Hewitt

Adjourning sine die.

#### MOTION

On motion of Senator Eide, the rules were suspended and Senate Concurrent Resolution No. 8412 was placed on the second reading calendar.

#### MOTION

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

#### SECOND READING

SENATE CONCURRENT RESOLUTION NO. 8412, by Senators Brown and Hewitt

Adjourning sine die.

The measure was read the second time.

#### MOTION

On motion of Senator Eide, the rules were suspended, Senate Concurrent Resolution No. 8412 was advanced to third reading, the second reading considered the third and the concurrent resolution was placed on final passage.

The President declared the question before the Senate to be the final passage of Senate Concurrent Resolution No. 8412.

SENATE CONCURRENT RESOLUTION NO. 8412, was adopted by voice vote.

#### MOTION

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

#### MOTION

Senator Eide moved adoption of the following resolution:

#### SENATE RESOLUTION 8718

By Senators Brown and Hewitt

WHEREAS, The 2010 Regular Session of the Sixty-first Legislature is drawing to a close; and

WHEREAS, It is necessary to provide for the completion of the work of the Senate after its adjournment and during the interim period between the close of the 2010 Regular Session of the Sixty-first Legislature and the convening of the next regular session; and

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WHEREAS, The state is experiencing extreme budget pressures and the Senate desires to promote efficiencies and savings within its own internal budget by maintaining certain travel, salary, hiring, contract, and expenditure controls and limitations throughout the fiscal year;

NOW, THEREFORE, BE IT RESOLVED, That the Senate Facilities and Operations Committee shall have full authority and direction over the authorization and execution of any contracts or subcontracts that necessitate the expenditure of Senate appropriations, subject to all applicable budget controls and limitations; and

BE IT FURTHER RESOLVED, That the Senate Facilities and Operations Committee may, as they deem appropriate, authorize travel for which members and staff may receive therefor their actual necessary expenses, and such per diem as may be authorized by law, subject to all applicable budget controls and limitations, to be paid upon receipt of their vouchers out of funds appropriated for legislative expenses; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Senate Facilities and Operations Committee be, and they hereby are, authorized to retain such employees as they may deem necessary and that said employees be allowed such rate of pay therefor, subject to all applicable budget controls and limitations, as the Secretary of the Senate and the Senate Facilities and Operations Committee shall deem proper; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and he or she hereby is, authorized and directed to make out and execute the necessary vouchers upon which warrants for legislative expenses and expenditures shall be drawn from funds provided therefor; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate and the Facilities and Operations Committee be, and they hereby are, authorized to approve written requests by standing committees to meet during the interim period; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate be, and hereby is, authorized and directed to have printed a copy of the Senate Journals of the 2010 Regular Session of the Sixty-first Legislature; and

BE IT FURTHER RESOLVED, That the Rules Committee is authorized to assign subject matters to standing committees for study during the interim, and the Majority Leader is authorized to create special committees as may be necessary to carry out the functions of the Senate in an orderly manner and appoint members thereto with the approval of the Facilities and Operations Committee; and

BE IT FURTHER RESOLVED, That the Secretary of the Senate is authorized to express the sympathy of the Senate by sending flowers or memorials in the event of a bereavement in the legislative "family"; and

BE IT FURTHER RESOLVED, That such use of the Senate facilities is permitted upon such terms as the Secretary of the Senate shall deem proper.

The President declared the question before the Senate to be the adoption of Senate Resolution No. 8718.

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

MOTION

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

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has passed SENATE BILL NO. 6855. and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House receded from its amendment(s) to ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696. Under suspension of the rules, the bill was returned to second reading for the purpose of an amendment. The House adopted the following amendment: 6696-S2.E AMH SULL H5680.2, and passed the bill as amended by the House.

Strike everything after the enacting clause and insert the following:

**"PART I  
ACCOUNTABILITY FRAMEWORK**

NEW SECTION. Sec. 101. The legislature finds that it is the state's responsibility to create a coherent and effective accountability framework for the continuous improvement for all schools and districts. This system must provide an excellent and equitable education for all students; an aligned federal/state accountability system; and the tools necessary for schools and districts to be accountable. These tools include the necessary accounting and data reporting systems, assessment systems to monitor student achievement, and a system of general support, targeted assistance, and if necessary, intervention.

The office of the superintendent of public instruction is responsible for developing and implementing the accountability tools to build district capacity and working within federal and state guidelines. The legislature assigned the state board of education responsibility and oversight for creating an accountability framework. This framework provides 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. Such a system will identify schools and their districts for recognition as well as for additional state support. For a specific group of challenged schools, defined as persistently lowest-achieving schools, and their districts, it is necessary to provide a required action process that creates a partnership between the state and local district to target funds and assistance to turn around the identified lowest-achieving schools.

Phase I of this accountability system will recognize schools that have done an exemplary job of raising student achievement and closing the achievement gaps using the state board of education's accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps. Phase I will also target the lowest five percent of persistently lowest-achieving schools defined under federal guidelines to provide federal funds and federal intervention models through a voluntary option in 2010, and for those who do not volunteer and have not improved student achievement, a required action process beginning in 2011.

Phase II of this accountability system will work toward implementing the state board of education's accountability index for identification of schools in need of improvement, including those that are not Title I schools, and the use of state and local intervention

models and state funds through a required action process beginning in 2013, in addition to the federal program. Federal approval of the state board of education's accountability index must be obtained or else the federal guidelines for persistently lowest-achieving schools will continue to be used.

The expectation from implementation of this accountability system is the improvement of student achievement for all students to prepare them for postsecondary education, work, and global citizenship in the twenty-first century.

**NEW SECTION. Sec. 102.** (1) Beginning in 2010, and each year thereafter, by December 1st, the superintendent of public instruction shall annually identify schools as one of the state's persistently lowest-achieving schools if the school is a Title I school, or a school that is eligible for but does not receive Title I funds, that is among the lowest-achieving five percent of Title I or Title I eligible schools in the state.

(2) The criteria for determining whether a school is among the persistently lowest-achieving five percent of Title I schools, or Title I eligible schools, under subsection (1) of this section shall be established by the superintendent of public instruction. The criteria must meet all applicable requirements for the receipt of a federal school improvement grant under the American recovery and reinvestment act of 2009 and Title I of the elementary and secondary education act of 1965, and take into account both:

(a) The academic achievement of the "all students" group in a school in terms of proficiency on the state's assessment, and any alternative assessments, in reading and mathematics combined; and

(b) The school's lack of progress on the mathematics and reading assessments over a number of years in the "all students" group.

**NEW SECTION. Sec. 103.** (1) Beginning in January 2011, the superintendent of public instruction shall annually recommend to the state board of education school districts for designation as required action districts. A district with at least one school identified as a persistently lowest-achieving school shall be designated as a required action district if it meets the criteria developed by the superintendent of public instruction. However, a school district shall not be recommended for designation as a required action district if the district was awarded a federal school improvement grant by the superintendent in 2010 and for three consecutive years following receipt of the grant implemented a federal school intervention model at each school identified for improvement. The state board of education may designate a district that received a school improvement grant in 2010 as a required action district if after three years of voluntarily implementing a plan the district continues to have a school identified as persistently lowest-achieving and meets the criteria for designation established by the superintendent of public instruction.

(2) The superintendent of public instruction shall provide a school district superintendent with written notice of the recommendation for designation as a required action district by certified mail or personal service. A school district superintendent may request reconsideration of the superintendent of public instruction's recommendation. The reconsideration shall be limited to a determination of whether the school district met the criteria for being recommended as a required action district. A request for reconsideration must be in writing and served on the superintendent of public instruction within ten days of service of the notice of the superintendent's recommendation.

(3) The state board of education shall annually designate those districts recommended by the superintendent in subsection (1) of this section as required action districts. A district designated as a required action district shall be required to notify all parents of students attending a school identified as a persistently lowest-achieving school in the district of the state board of education's designation of the district as a required action district and the

process for complying with the requirements set forth in sections 104 through 110 of this act.

**NEW SECTION. Sec. 104.** (1) The superintendent of public instruction shall contract with an external review team to conduct an academic performance audit of the district and each persistently lowest-achieving school in a required action district to identify the potential reasons for the school's low performance and lack of progress. The review team must consist of persons under contract with the superintendent who have expertise in comprehensive school and district reform and may not include staff from the agency, the school district that is the subject of the audit, or members or staff of the state board of education.

(2) The audit must be conducted based on criteria developed by the superintendent of public instruction and must include but not be limited to an examination of the following:

- (a) Student demographics;
- (b) Mobility patterns;
- (c) School feeder patterns;
- (d) The performance of different student groups on assessments;
- (e) Effective school leadership;
- (f) Strategic allocation of resources;
- (g) Clear and shared focus on student learning;
- (h) High standards and expectations for all students;
- (i) High level of collaboration and communication;
- (j) Aligned curriculum, instruction, and assessment to state standards;
- (k) Frequency of monitoring of learning and teaching;
- (l) Focused professional development;
- (m) Supportive learning environment;
- (n) High level of family and community involvement;
- (o) Alternative secondary schools best practices; and
- (p) Any unique circumstances or characteristics of the school or district.

(3) Audit findings must be made available to the local school district, its staff, the community, and the state board of education.

**NEW SECTION. Sec. 105.** (1) The local district superintendent and local school board of a school district designated as a required action district must submit a required action plan to the state board of education for approval. Unless otherwise required by subsection (3) of this section, the plan must be submitted under a schedule as required by the state board. A required action plan must be developed in collaboration with administrators, teachers, and other staff, parents, unions representing any employees within the district, students, and other representatives of the local community. The superintendent of public instruction shall provide a district with assistance in developing its plan if requested. The school board must conduct a public hearing to allow for comment on a proposed required action plan. The local school district shall submit the plan first to the office of the superintendent of public instruction to review and approve that the plan is consistent with federal guidelines. After the office of the superintendent of public instruction has approved that the plan is consistent with federal guidelines, the local school district must submit its required action plan to the state board of education for approval.

(2) A required action plan must include all of the following:

(a) Implementation of one of the four federal intervention models required for the receipt of a federal school improvement grant, for those persistently lowest-achieving schools that the district will be focusing on for required action. However, a district may not establish a charter school under a federal intervention model without express legislative authority. The intervention models are the turnaround, restart, school closure, and transformation models. The intervention model selected must address the concerns raised in the academic performance audit and be intended to improve student performance to allow a school district to be removed from the list of



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districts designated as a required action district by the state board of education within three years of implementation of the plan;

(b) Submission of an application for a federal school improvement grant or a grant from other federal funds for school improvement to the superintendent of public instruction;

(c) A budget that provides for adequate resources to implement the federal model selected and any other requirements of the plan;

(d) A description of the changes in the district's or school's existing policies, structures, agreements, processes, and practices that are intended to attain significant achievement gains for all students enrolled in the school and how the district intends to address the findings of the academic performance audit; and

(e) Identification of the measures that the school district will use in assessing student achievement at a school identified as a persistently lowest-achieving school, which include improving mathematics and reading student achievement and graduation rates as defined by the office of the superintendent of public instruction that enable the school to no longer be identified as a persistently lowest-achieving school.

(3)(a) For any district designated for required action, the parties to any collective bargaining agreement negotiated, renewed, or extended under chapter 41.59 or 41.56 RCW after the effective date of this section must reopen the agreement, or negotiate an addendum, if needed, to make changes to terms and conditions of employment that are necessary to implement a required action plan.

(b) If the school district and the employee organizations are unable to agree on the terms of an addendum or modification to an existing collective bargaining agreement, the parties, including all labor organizations affected under the required action plan, shall request the public employment relations commission to, and the commission shall, appoint an employee of the commission to act as a mediator to assist in the resolution of a dispute between the school district and the employee organizations. Beginning in 2011, and each year thereafter, mediation shall commence no later than April 15th. All mediations held under this section shall include the employer and representatives of all affected bargaining units.

(c) If the executive director of the public employment relations commission, upon the recommendation of the assigned mediator, finds that the employer and any affected bargaining unit are unable to reach agreement following a reasonable period of negotiations and mediation, but by no later than May 15th of the year in which mediation occurred, the executive director shall certify any disputed issues for a decision by the superior court in the county where the school district is located. The issues for determination by the superior court must be limited to the issues certified by the executive director.

(d) The process for filing with the court in this subsection (3)(d) must be used in the case where the executive director certifies issues for a decision by the superior court.

(i) The school district shall file a petition with the superior court, by no later than May 20th of the same year in which the issues were certified, setting forth the following:

(A) The name, address, and telephone number of the school district and its principal representative;

(B) The name, address, and telephone number of the employee organizations and their principal representatives;

(C) A description of the bargaining units involved;

(D) A copy of the unresolved issues certified by the executive director for a final and binding decision by the court; and

(E) The academic performance audit that the office of the superintendent of public instruction completed for the school district.

(ii) Within seven days after the filing of the petition, each party shall file with the court the proposal it is asking the court to order be implemented in a required action plan for the district for each issue

certified by the executive director. Contemporaneously with the filing of the proposal, a party must file a brief with the court setting forth the reasons why the court should order implementation of its proposal in the final plan.

(iii) Following receipt of the proposals and briefs of the parties, the court must schedule a date and time for a hearing on the petition. The hearing must be limited to argument of the parties or their counsel regarding the proposals submitted for the court's consideration. The parties may waive a hearing by written agreement.

(iv) The court must enter an order selecting the proposal for inclusion in a required action plan that best responds to the issues raised in the school district's academic performance audit, and allows for the award of a federal school improvement grant or a grant from other federal funds for school improvement to the district from the office of the superintendent of public instruction to implement one of the four federal intervention models. The court's decision must be issued no later than June 15th of the year in which the petition is filed and is final and binding on the parties; however the court's decision is subject to appeal only in the case where it does not allow the school district to implement a required action plan consistent with the requirements for the award of a federal school improvement grant or other federal funds for school improvement by the superintendent of public instruction.

(e) Each party shall bear its own costs and attorneys' fees incurred under this statute.

(f) Any party that proceeds with the process in this section after knowledge that any provision of this section has not been complied with and who fails to state its objection in writing is deemed to have waived its right to object.

(4) All contracts entered into between a school district and an employee must be consistent with this section and allow school districts designated as required action districts to implement one of the four federal models in a required action plan.

**NEW SECTION. Sec. 106.** A required action plan developed by a district's school board and superintendent must be submitted to the state board of education for approval. The state board must accept for inclusion in any required action plan the final decision by the superior court on any issue certified by the executive director of the public employment relations commission under the process in section 105 of this act. The state board of education shall approve a plan proposed by a school district only if the plan meets the requirements in section 105 of this act and provides sufficient remedies to address the findings in the academic performance audit to improve student achievement. Any addendum or modification to an existing collective bargaining agreement, negotiated under section 105 of this act or by agreement of the district and the exclusive bargaining unit, related to student achievement or school improvement shall not go into effect until approval of a required action plan by the state board of education. If the state board does not approve a proposed plan, it must notify the local school board and local district's superintendent in writing with an explicit rationale for why the plan was not approved. Nonapproval by the state board of education of the local school district's initial required action plan submitted is not intended to trigger any actions under section 108 of this act. With the assistance of the office of the superintendent of public instruction, the superintendent and school board of the required action district shall either: (a) Submit a new plan to the state board of education for approval within forty days of notification that its plan was rejected, or (b) submit a request to the required action plan review panel established under section 107 of this act for reconsideration of the state board's rejection within ten days of the notification that the plan was rejected. If federal funds are not available, the plan is not required to be implemented until such funding becomes available. If federal funds for this purpose

are available, a required action plan must be implemented in the immediate school year following the district's designation as a required action district.

**NEW SECTION. Sec. 107.** (1) A required action plan review panel shall be established to offer an objective, external review of a request from a school district for reconsideration of the state board of education's rejection of the district's required action plan. The review and reconsideration by the panel shall be based on whether the state board of education gave appropriate consideration to the unique circumstances and characteristics identified in the academic performance audit of the local school district whose required action plan was rejected.

(2)(a) The panel shall be composed of five individuals with expertise in school improvement, school and district restructuring, or parent and community involvement in schools. Two of the panel members shall be appointed by the speaker of the house of representatives; two shall be appointed by the president of the senate; and one shall be appointed by the governor.

(b) The speaker of the house of representatives, president of the senate, and governor shall solicit recommendations for possible panel members from the Washington association of school administrators, the Washington state school directors' association, the association of Washington school principals, the achievement gap oversight and accountability committee, and associations representing certificated teachers, classified school employees, and parents.

(c) Members of the panel shall be appointed no later than December 1, 2010, but the superintendent of public instruction shall convene the panel only as needed to consider a school district's request for reconsideration. Appointments shall be for a four-year term, with opportunity for reappointment. Reappointments in the case of a vacancy shall be made expeditiously so that all requests are considered in a timely manner.

(3) The required action plan review panel may reaffirm the decision of the state board of education, recommend that the state board reconsider the rejection, or recommend changes to the required action plan that should be considered by the district and the state board of education to secure approval of the plan. The state board of education shall consider the recommendations of the panel and issue a decision in writing to the local school district and the panel. If the school district must submit a new required action plan to the state board of education, the district must submit the plan within forty days of the board's decision.

(4) The state board of education and superintendent of public instruction must develop timelines and procedures for the deliberations under this section so that school districts can implement a required action plan within the time frame required under section 106 of this act.

**NEW SECTION. Sec. 108.** The state board of education may direct the superintendent of public instruction to require a school district that has not submitted a final required action plan for approval, or has submitted but not received state board of education approval of a required action plan by the beginning of the school year in which the plan is intended to be implemented, to redirect the district's Title I funds based on the academic performance audit findings.

**NEW SECTION. Sec. 109.** A school district must implement a required action plan upon approval by the state board of education. The office of superintendent of public instruction must provide the required action district with technical assistance and federal school improvement grant funds or other federal funds for school improvement, if available, to implement an approved plan. The district must submit a report to the superintendent of public instruction that provides the progress the district is making in meeting the student achievement goals based on the state's assessments, identifying strategies and assets used to solve audit

findings, and establishing evidence of meeting plan implementation benchmarks as set forth in the required action plan.

**NEW SECTION. Sec. 110.** (1) The superintendent of public instruction must provide a report twice per year to the state board of education regarding the progress made by all school districts designated as required action districts.

(2) The superintendent of public instruction must recommend to the state board of education that a school district be released from the designation as a required action district after the district implements a required action plan for a period of three years; has made progress, as defined by the superintendent of public instruction, in reading and mathematics on the state's assessment over the past three consecutive years; and no longer has a school within the district identified as persistently lowest achieving. The state board shall release a school district from the designation as a required action district upon confirmation that the district has met the requirements for a release.

(3) If the state board of education determines that the required action district has not met the requirements for release, the district remains in required action and must submit a new or revised plan under the process in section 105 of this act.

**Sec. 111.** RCW 28A.305.225 and 2009 c 548 s 503 are each amended 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, for continuous improvement, 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~~

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~~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)) (3) The state board of education, in cooperation with the office of the superintendent of public instruction, shall annually recognize schools for exemplary performance as measured on the state board of education accountability index. The state board of education shall have ongoing collaboration with the achievement gap oversight and accountability committee regarding the measures used to measure the closing of the achievement gaps and the recognition provided to the school districts for closing the achievement gaps.~~

~~(4) 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)) (5) 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, chapter 548, Laws of 2009 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.~~

NEW SECTION. Sec. 112. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "All students group" means those students in grades three through eight and high school who take the state's assessment in reading and mathematics required under 20 U.S.C. Sec. 6311(b)(3).

(2) "Title I" means Title I, part A of the federal elementary and secondary education act of 1965 (ESEA) (20 U.S.C. Secs. 6311-6322).

NEW SECTION. Sec. 113. The superintendent of public instruction and the state board of education may each adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

NEW SECTION. Sec. 114. (1) The legislature finds that a unified and equitable system of education accountability must include expectations and benchmarks for improvement, along with support for schools and districts to make the necessary changes that will lead to success for all students. Such a system must also clearly address the consequences for persistent lack of improvement. Establishing a process for school districts to prepare and implement a required action plan is one such consequence. However, to be truly accountable to students, parents, the community, and taxpayers, the legislature must also consider what

should happen if a required action district continues not to make improvement after an extended period of time. Without an answer to this significant question, the state's system of education accountability is incomplete. Furthermore, accountability must be appropriately shared among various levels of decision makers, including in the building, in the district, and at the state.

(2)(a) A joint select committee on education accountability is established beginning no earlier than May 1, 2012, with the following members:

(i) The president of the senate shall appoint two members from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint two members from each of the two largest caucuses of the house of representatives.

(b) The committee shall choose its cochairs from among its membership.

(3) The committee shall:

(a) Identify and analyze options for a complete system of education accountability, particularly consequences in the case of persistent lack of improvement by a required action district;

(b) Identify and analyze appropriate decision-making responsibilities and accompanying consequences at the building, district, and state level within such an accountability system;

(c) Examine models and experiences in other states;

(d) Identify the circumstances under which significant state action may be required; and

(e) Analyze the financial, legal, and practical considerations that would accompany significant state action.

(4) Staff support for the committee must be provided by the senate committee services and the house of representatives office of program research.

(5) The committee shall submit an interim report to the education committees of the legislature by September 1, 2012, and a final report with recommendations by September 1, 2013.

(6) This section expires June 30, 2014.

## PART II EVALUATIONS

**Sec. 201.** RCW 28A.150.230 and 2006 c 263 s 201 are each amended to read as follows:

(1) It is the intent and purpose of this section to guarantee that each common school district board of directors, whether or not acting through its respective administrative staff, be held accountable for the proper operation of their district to the local community and its electorate. In accordance with the provisions of Title 28A RCW, as now or hereafter amended, each common school district board of directors shall be vested with the final responsibility for the setting of policies ensuring quality in the content and extent of its educational program and that such program provide students with the opportunity to achieve those skills which are generally recognized as requisite to learning.

(2) In conformance with the provisions of Title 28A RCW, as now or hereafter amended, it shall be the responsibility of each common school district board of directors to adopt policies to:

(a) Establish performance criteria and an evaluation process for its superintendent, classified staff, certificated personnel, including administrative staff, and for all programs constituting a part of such district's curriculum. Each district shall report annually to the superintendent of public instruction the following for each employee group listed in this subsection (2)(a): (i) Evaluation criteria and rubrics; (ii) a description of each rating; and (iii) the number of staff in each rating;

(b) Determine the final assignment of staff, certificated or classified, according to board enumerated classroom and program

needs and data, based upon a plan to ensure that the assignment policy: (i) Supports the learning needs of all the students in the district; and (ii) gives specific attention to high-need schools and classrooms;

(c) Provide information to the local community and its electorate describing the school district's policies concerning hiring, assigning, terminating, and evaluating staff, including the criteria for evaluating teachers and principals;

(d) Determine the amount of instructional hours necessary for any student to acquire a quality education in such district, in not less than an amount otherwise required in RCW 28A.150.220, or rules of the state board of education;

~~((d))~~ (e) Determine the allocation of staff time, whether certificated or classified;

~~((e))~~ (f) Establish final curriculum standards consistent with law and rules of the superintendent of public instruction, relevant to the particular needs of district students or the unusual characteristics of the district, and ensuring a quality education for each student in the district; and

~~((f))~~ (g) Evaluate teaching materials, including text books, teaching aids, handouts, or other printed material, in public hearing upon complaint by parents, guardians or custodians of students who consider dissemination of such material to students objectionable.

**Sec. 202.** RCW 28A.405.100 and 1997 c 278 s 1 are each amended to read as follows:

(1)(a) Except as provided in subsection (2) of this section, the superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

(b) Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

(2)(a) Pursuant to the implementation schedule established in subsection (7)(b) of this section, every board of directors shall, in accordance with procedures provided in RCW 41.59.010 through 41.59.170, 41.59.910, and 41.59.920, establish revised evaluative criteria and a four-level rating system for all certificated classroom teachers.

(b) The minimum criteria shall include: (i) Centering instruction on high expectations for student achievement; (ii) demonstrating effective teaching practices; (iii) recognizing individual student learning needs and developing strategies to address those needs; (iv) providing clear and intentional focus on subject matter content and curriculum; (v) fostering and managing a safe, positive learning environment; (vi) using multiple student data elements to modify instruction and improve student learning; (vii) communicating and collaborating with parents and school community; and (viii) exhibiting collaborative and collegial practices focused on improving instructional practice and student learning.

(c) The four-level rating system used to evaluate the certificated

classroom teacher must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When student growth data, if available and relevant to the teacher and subject matter, is referenced in the evaluation process it must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(3)(a) Except as provided in subsection ~~((3))~~ (10) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel ~~(- hereinafter referred to as "employees" in this section.)~~ shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. An employee in the third year of provisional status as defined in RCW 28A.405.220 shall be observed at least three times in the performance of his or her duties and the total observation time for the school year shall not be less than ninety minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the observation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

(b) As used in this subsection and subsection (4) of this section, "employees" means classroom teachers and certificated support personnel.

(4)(a) At any time after October 15th, an employee whose work is not judged ~~((unsatisfactory))~~ satisfactory based on district evaluation criteria shall be notified in writing of the specific areas of deficiencies along with a reasonable program for improvement. During the period of probation, the employee may not be transferred from the supervision of the original evaluator. Improvement of performance or probable cause for nonrenewal must occur and be documented by the original evaluator before any consideration of a request for transfer or reassignment as contemplated by either the individual or the school district. A probationary period of sixty school days shall be established. The establishment of a probationary period does not adversely affect the contract status of an employee within the meaning of RCW 28A.405.300. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement during the established probationary period, as specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.405.300 or 28A.405.210.

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(b) Immediately following the completion of a probationary period that does not produce performance changes detailed in the initial notice of deficiencies and improvement program, the employee may be removed from his or her assignment and placed into an alternative assignment for the remainder of the school year. This reassignment may not displace another employee nor may it adversely affect the probationary employee's compensation or benefits for the remainder of the employee's contract year. If such reassignment is not possible, the district may, at its option, place the employee on paid leave for the balance of the contract term.

~~((2))~~ (5) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Except as provided in subsection (6) of this section, such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

~~((3))~~ (6)(a) Pursuant to the implementation schedule established by subsection (7)(b) of this section, every board of directors shall establish revised evaluative criteria and a four-level rating system for principals.

(b) The minimum criteria shall include: (i) Creating a school culture that promotes the ongoing improvement of learning and teaching for students and staff; (ii) demonstrating commitment to closing the achievement gap; (iii) providing for school safety; (iv) leading the development, implementation, and evaluation of a data-driven plan for increasing student achievement, including the use of multiple student data elements; (v) assisting instructional staff with alignment of curriculum, instruction, and assessment with state and local district learning goals; (vi) monitoring, assisting, and evaluating effective instruction and assessment practices; (vii) managing both staff and fiscal resources to support student achievement and legal responsibilities; and (viii) partnering with the school community to promote student learning.

(c) The four-level rating system used to evaluate the principal must describe performance along a continuum that indicates the extent to which the criteria have been met or exceeded. When available, student growth data that is referenced in the evaluation process must be based on multiple measures that can include classroom-based, school-based, district-based, and state-based tools. As used in this subsection, "student growth" means the change in student achievement between two points in time.

(7)(a) The superintendent of public instruction, in collaboration with state associations representing teachers, principals, administrators, and parents, shall create models for implementing the evaluation system criteria, student growth tools, professional development programs, and evaluator training for certificated classroom teachers and principals. Human resources specialists, professional development experts, and assessment experts must also be consulted. Due to the diversity of teaching assignments and the many developmental levels of students, classroom teachers and principals must be prominently represented in this work. The models must be available for use in the 2011-12 school year.

(b) A new certificated classroom teacher evaluation system that implements the provisions of subsection (2) of this section and a new principal evaluation system that implements the provisions of subsection (6) of this section shall be phased-in beginning with the 2010-11 school year by districts identified in (c) of this subsection

and implemented in all school districts beginning with the 2013-14 school year.

(c) A set of school districts shall be selected by the superintendent of public instruction to participate in a collaborative process resulting in the development and piloting of new certificated classroom teacher and principal evaluation systems during the 2010-11 and 2011-12 school years. These school districts must be selected based on: (i) The agreement of the local associations representing classroom teachers and principals to collaborate with the district in this developmental work and (ii) the agreement to participate in the full range of development and implementation activities, including: Development of rubrics for the evaluation criteria and ratings in subsections (2) and (6) of this section; identification of or development of appropriate multiple measures of student growth in subsections (2) and (6) of this section; development of appropriate evaluation system forms; participation in professional development for principals and classroom teachers regarding the content of the new evaluation system; participation in evaluator training; and participation in activities to evaluate the effectiveness of the new systems and support programs. The school districts must submit to the office of the superintendent of public instruction data that is used in evaluations and all district-collected student achievement, aptitude, and growth data regardless of whether the data is used in evaluations. If the data is not available electronically, the district may submit it in nonelectronic form. The superintendent of public instruction must analyze the districts' use of student data in evaluations, including examining the extent that student data is not used or is underutilized. The superintendent of public instruction must also consult with participating districts and stakeholders, recommend appropriate changes, and address statewide implementation issues. The superintendent of public instruction shall report evaluation system implementation status, evaluation data, and recommendations to appropriate committees of the legislature and governor by July 1, 2011, and at the conclusion of the development phase by July 1, 2012. In the July 1, 2011 report, the superintendent shall include recommendations for whether a single statewide evaluation model should be adopted, whether modified versions developed by school districts should be subject to state approval, and what the criteria would be for determining if a school district's evaluation model meets or exceeds a statewide model. The report shall also identify challenges posed by requiring a state approval process.

(8) Each certificated (~~(employee)~~) classroom teacher and certificated support personnel shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her assessment of the employee's professional performance.

~~((4))~~ (9) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated (~~(employees)~~) classroom teachers and certificated support personnel or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.405.210, or the discharge of such evaluator under RCW 28A.405.300.

~~((5))~~ (10) After (~~(an employee)~~) a certificated classroom teacher or certificated support personnel has four years of satisfactory evaluations under subsection (1) of this section or has received one of the two top ratings for four years under subsection (2) of this section, a school district may use a short form of evaluation, a locally bargained evaluation emphasizing professional growth, an evaluation under subsection (1) or (2) of this section, or any combination thereof. The short form of evaluation shall

include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) or (2) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. A locally bargained short-form evaluation emphasizing professional growth must provide that the professional growth activity conducted by the certificated classroom teacher be specifically linked to one or more of the certificated classroom teacher evaluation criteria. However, the evaluation process set forth in subsection (1) or (2) of this section shall be followed at least once every three years unless this time is extended by a local school district under the bargaining process set forth in chapter 41.59 RCW. The employee or evaluator may require that the evaluation process set forth in subsection (1) or (2) of this section be conducted in any given school year. No evaluation other than the evaluation authorized under subsection (1) or (2) of this section may be used as a basis for determining that an employee's work is ~~((unsatisfactory))~~ not satisfactory under subsection (1) or (2) of this section or as probable cause for the nonrenewal of an employee's contract under RCW 28A.405.210 unless an evaluation process developed under chapter 41.59 RCW determines otherwise.

**Sec. 203.** RCW 28A.405.220 and 2009 c 57 s 2 are each amended to read as follows:

(1) Notwithstanding the provisions of RCW 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first ~~((two))~~ three years of employment by such district, unless: (a) The employee has previously completed at least two years of certificated employment in another school district in the state of Washington, in which case the employee shall be subject to nonrenewal of employment contract pursuant to this section during the first year of employment with the new district; or (b) the school district superintendent may make a determination to remove an employee from provisional status if the employee has received one of the top two evaluation ratings during the second year of employment by the district. Employees as defined in this section shall hereinafter be referred to as "provisional employees(("))."

(2) In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.405.100.

(3) Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

(4) Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

(5) The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

(6) This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.405.210 and chapter 28A.645 RCW.

**NEW SECTION. Sec. 204.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Representatives of the office of the superintendent of public instruction and statewide associations representing administrators, principals, human resources specialists, and certificated classroom teachers shall analyze how the evaluation systems in RCW 28A.405.100 (2) and (6) affect issues related to a change in contract status.

(2) The analysis shall be conducted during each of the phase-in years of the certificated classroom teacher and principal evaluation systems. The analysis shall include: Procedures, timelines, probationary periods, appeal procedures, and other items related to the timely exercise of employment decisions and due process provisions for certificated classroom teachers and principals.

**NEW SECTION. Sec. 205.** A new section is added to chapter 28A.405 RCW to read as follows:

If funds are provided for professional development activities designed specifically for first through third-year teachers, the funds shall be allocated first to districts participating in the evaluation systems in RCW 28A.405.100 (2) and (6) before the required implementation date under that section.

### PART III PRINCIPAL PERFORMANCE

**NEW SECTION. Sec. 301.** The legislature finds that the presence of highly effective principals in schools has never been more important than it is today. To enable students to meet high academic standards, principals must lead and encourage teams of teachers and support staff to work together, align curriculum and instruction, use student data to target instruction and intervention strategies, and serve as the chief school officer with parents and the community. Greater responsibility should come with greater authority over personnel, budgets, resource allocation, and programs. But greater responsibility also comes with greater accountability for outcomes. Washington is putting into place an updated and rigorous system of evaluating principal performance, one that will measure what matters. This system will never be truly effective unless the results are meaningfully used.

**NEW SECTION. Sec. 302.** A new section is added to chapter 28A.405 RCW to read as follows:

(1) Any certificated employee of a school district under this section who is first employed as a principal after the effective date of

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this section shall be subject to transfer as provided under this section, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section means any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator. This section applies only to school districts with an annual average student enrollment of more than thirty-five thousand full-time equivalent students.

(2) During the first three consecutive school years of employment as a principal by the school district, or during the first full school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position may be made by a determination of the superintendent that the best interests of the school district would be served by the transfer.

(3) Commencing with the fourth consecutive school year of employment as a principal, or the second consecutive school year of such employment in the case of a principal who has been previously employed as a principal by another school district in the state for three or more consecutive school years, the transfer of the principal to a subordinate certificated position shall be based on the superintendent's determination that the results of the evaluation of the principal's performance using the evaluative criteria and rating system established under RCW 28A.405.100 provide a valid reason for the transfer without regard to whether there is probable cause for the transfer. If a valid reason is shown, it shall be deemed that the transfer is reasonably related to the principal's performance. No probationary period is required. However, provision of support and an attempt at remediation of the performance of the principal, as defined by the superintendent, are required for a determination by the superintendent under this subsection that the principal should be transferred to a subordinate certificated position.

(4) Any superintendent transferring a principal under this section to a subordinate certificated position shall notify that principal in writing on or before May 15th before the beginning of the school year of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th. The notification shall state the reason or reasons for the transfer and shall identify the subordinate certificated position to which the principal will be transferred. The notification shall be served upon the principal personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

(5) Any principal so notified may request to the president or chair of the board of directors of the district, in writing and within ten days after receiving notice, an opportunity to meet informally with the board of directors in an executive session for the purpose of requesting the board to reconsider the decision of the superintendent, and shall be given such opportunity. The board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall give the principal written notice at least three days before the meeting of the date, time, and place of the meeting. At the meeting the principal shall be given the opportunity to refute any evidence upon which the determination was based and to make any argument in support of his or her request for reconsideration. The principal and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the principal in writing of its final decision within ten days following its meeting with the principal. No appeal to the courts shall lie from the final decision of the board of directors to transfer a principal to a subordinate certificated position.

(6) This section provides the exclusive means for transferring a certificated employee first employed by a school district under this section as a principal after the effective date of this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 303.** RCW 28A.405.210 and 2009 c 57 s 1 are each amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the Washington professional educator standards board for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a nonrenewal of contract for the purposes of this section.

**Sec. 304.** RCW 28A.405.230 and 2009 c 57 s 3 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, or if the omnibus appropriations act has not passed the legislature by May 15th, then notification shall be no later than June 15th, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: **PROVIDED**, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976, and to all persons so employed at any time thereafter, except that section 302 of this act applies to persons first employed after the effective date of this section as a principal by a school district meeting the criteria of section 302 of this act. This section provides the exclusive means for transferring an administrator subject to this section to a subordinate certificated position at the expiration of the term of his or her employment contract.

**Sec. 305.** RCW 28A.405.300 and 1990 c 33 s 395 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school

district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.405.230 or section 302 of this act shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

#### **PART IV ENCOURAGING INNOVATIONS**

**Sec. 401.** RCW 28A.400.200 and 2002 c 353 s 2 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a master's degree shall not be less than the salary provided in the appropriations act in the statewide salary allocation schedule for an employee with a master's degree and zero years of service;

(3)(a) The actual average salary paid to certificated instructional staff shall not exceed the district's average certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW 28A.150.410.

(b) Fringe benefit contributions for certificated instructional staff shall be included as salary under (a) of this subsection only to the extent that the district's actual average benefit contribution exceeds the amount of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW 28A.400.210; employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system; or employer contributions for health benefits in excess of the insurance benefits allocation provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable. A school district



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may not use state funds to provide employer contributions for such excess health benefits.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, for additional responsibilities, ~~((or))~~ for incentives, or for implementing specific measurable innovative activities, including professional development, specified by the school district to: (a) Close one or more achievement gaps, (b) focus on development of science, technology, engineering, and mathematics (STEM) learning opportunities, or (c) provide arts education. Beginning September 1, 2011, school districts shall annually provide a brief description of the innovative activities included in any supplemental contract to the office of the superintendent of public instruction. The office of the superintendent of public instruction shall summarize the district information and submit an annual report to the education committees of the house of representatives and the senate. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

(5) Employee benefit plans offered by any district shall comply with RCW 28A.400.350 and 28A.400.275 and 28A.400.280.

**PART V  
EXPANDING PROFESSIONAL PREPARATION  
OPTIONS AND WORKFORCE INFORMATION**

NEW SECTION. Sec. 501. A new section is added to chapter 28A.410 RCW to read as follows:

(1) Beginning with the 2011-12 school year, all professional educator standards board-approved teacher preparation programs must administer to all preservice candidates the evidence-based assessment of teaching effectiveness adopted by the professional educator standards board. The professional educator standards board shall adopt rules that establish a date during the 2012-13 school year after which candidates completing teacher preparation programs must successfully pass this assessment. Assessment results from persons completing each preparation program must be reported annually by the professional educator standards board to the governor and the education and fiscal committees of the legislature by December 1st.

(2) The professional educator standards board and the superintendent of public instruction, as determined by the board, may contract with one or more third parties for:

(a) The administration, scoring, and reporting of scores of the assessment under this section;

(b) Related clerical and administrative activities; or

(c) Any combination of the purposes of this subsection (2).

(3) Candidates for residency certification who are required to successfully complete the assessment under this section, and who are charged a fee for the assessment by a third party contracted with under this section, shall pay the fee charged by the contractor directly to the contractor. Such fees shall be reasonably related to the actual costs of the contractor in providing the assessment.

NEW SECTION. Sec. 502. A new section is added to chapter 28A.410 RCW to read as follows:

(1) By September 30, 2010, the professional educator standards board shall review and revise teacher and administrator preparation program approval standards and proposal review procedures at the residency certificate level to ensure they are rigorous and appropriate standards for an expanded range of potential providers, including community college and nonhigher education providers. All approved providers must adhere to the same standards and comply with the same requirements.

(2) Beginning September 30, 2010, the professional educator standards board must accept proposals for community college and nonhigher education providers of educator preparation programs. Proposals must be processed and considered by the board as expeditiously as possible.

(3) By September 1, 2011, all professional educator standards board-approved residency teacher preparation programs at institutions of higher education as defined in RCW 28B.10.016 not currently a partner in an alternative route program approved by the professional educator standards board must submit to the board a proposal to offer one or more of the alternative route programs that meet the requirements of RCW 28A.660.020 and 28A.660.040.

Sec. 503. RCW 28A.660.020 and 2006 c 263 s 816 are each amended to read as follows:

(1) ~~((Each))~~ The professional educator standards board shall transition the alternative route partnership grant program from a separate competitive grant program to a preparation program model to be expanded among approved preparation program providers. Alternative routes are partnerships between professional educator standards board-approved preparation programs, Washington school districts, and other partners as appropriate.

(2) Each prospective teacher preparation program provider, in cooperation with a Washington school district or consortia of school districts applying ~~((for the))~~ to operate alternative route certification program shall ~~((submit a))~~ include in its proposal to the Washington professional educator standards board ~~((specifying))~~:

(a) The route or routes the partnership program intends to offer and a detailed description of how the routes will be structured and operated by the partnership;

(b) The estimated number of candidates that will be enrolled per route;

(c) An identification, indication of commitment, and description of the role of approved teacher preparation programs ~~((that are))~~ and partnering ~~((with the))~~ district or consortia of districts;

(d) An assurance ~~((or))~~ that the district ~~((provision of))~~ or approved preparation program provider will provide adequate training for mentor teachers ~~((either through participation in a state mentor training academy or district provided training that meets state established mentor training standards))~~ specific to the mentoring of alternative route candidates;

(e) An assurance that significant time will be provided for mentor teachers to spend with the alternative route teacher candidates throughout the internship. Partnerships must provide each candidate with intensive classroom mentoring until such time as the candidate demonstrates the competency necessary to manage the classroom with less intensive supervision and guidance from a mentor;

(f) A description of the rigorous screening process for applicants to alternative route programs, including entry requirements specific to each route, as provided in RCW 28A.660.040; ~~((and))~~

(g) A summary of procedures that provide flexible completion opportunities for candidates to achieve a residency certificate; and

(h) The design and use of a teacher development plan for each candidate. The plan shall specify the alternative route coursework and training required of each candidate and shall be developed by

comparing the candidate's prior experience and coursework with the state's new performance-based standards for residency certification and adjusting any requirements accordingly. The plan may include the following components:

(i) A minimum of one-half of a school year, and an additional significant amount of time if necessary, of intensive mentorship during field experience, starting with full-time mentoring and progressing to increasingly less intensive monitoring and assistance as the intern demonstrates the skills necessary to take over the classroom with less intensive support. ~~((For route one and two candidates,))~~ Before the supervision is diminished, the mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate is ready to manage the classroom with less intensive supervision ~~((For route three and four candidates, the mentor of the teacher candidate shall make the decision))~~;

(ii) Identification of performance indicators based on the knowledge and skills standards required for residency certification by the Washington professional educator standards board;

(iii) Identification of benchmarks that will indicate when the standard is met for all performance indicators;

(iv) A description of strategies for assessing candidate performance on the benchmarks;

(v) Identification of one or more tools to be used to assess a candidate's performance once the candidate has been in the classroom for about one-half of a school year; ~~((and))~~

(vi) A description of the criteria that would result in residency certification after about one-half of a school year but before the end of the program; and

(vii) A description of how the district intends for the alternative route program to support its workforce development plan and how the presence of alternative route interns will advance its school improvement plans.

~~((2))~~ (3) To the extent funds are appropriated for this purpose, ~~((districts))~~ alternative route programs may apply for program funds to pay stipends to trained mentor teachers of interns during the mentored internship. The per intern amount of mentor stipend provided by state funds shall not exceed five hundred dollars.

**Sec. 504.** RCW 28A.660.040 and 2009 c 192 s 1 and 2009 c 166 s 1 are each reenacted and amended to read as follows:

~~((Partnership grants funded))~~ Alternative route programs under this chapter shall operate one to four specific route programs. Successful completion of the program shall make a candidate eligible for residency teacher certification. ~~((For route one and two candidates,))~~ The mentor of the teacher candidate at the school and the supervisor of the teacher candidate from the ~~((higher education))~~ teacher preparation program must both agree that the teacher candidate has successfully completed the program. ~~((For route three and four candidates, the mentor of the teacher candidate shall make the determination that the candidate has successfully completed the program.))~~

(1) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route one programs shall enroll currently employed classified instructional employees with transferable associate degrees seeking residency teacher certification with endorsements in special education, bilingual education, or English as a second language. It is anticipated that candidates enrolled in this route will complete both their baccalaureate degree and requirements for residency certification in two years or less, including a mentored internship to be completed in the final year. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as a classified instructional employee;

(b) Successful passage of the statewide basic skills exam ~~((when available))~~; and

(c) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers.

(2) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route two programs shall enroll currently employed classified staff with baccalaureate degrees seeking residency teacher certification in subject matter shortage areas and areas with shortages due to geographic location. Candidates enrolled in this route must complete a mentored internship complemented by flexibly scheduled training and coursework offered at a local site, such as a school or educational service district, or online or via video-conference over the K-20 network, in collaboration with the partnership program's higher education partner. In addition, partnership grant programs shall uphold entry requirements for candidates that include:

(a) District or building validation of qualifications, including one year of successful student interaction and leadership as classified staff;

(b) A baccalaureate degree from a regionally accredited institution of higher education. The individual's college or university grade point average may be considered as a selection factor;

(c) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of the statewide basic skills exam ~~((when available))~~.

(3) ~~((Partnership grant))~~ Alternative route programs seeking funds to operate route three programs shall enroll individuals with baccalaureate degrees, who are not employed in the district at the time of application. When selecting candidates for certification through route three, districts and approved preparation program providers shall give priority to individuals who are seeking residency teacher certification in subject matter shortage areas or shortages due to geographic locations. ~~((For route three only, the districts may include additional candidates in nonshortage subject areas if the candidates are seeking endorsements with a secondary grade level designation as defined by rule by the professional educator standards board. The districts shall disclose to candidates in nonshortage subject areas available information on the demand in those subject areas.))~~ Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship, followed, if necessary, by a second summer teaching academy. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available))~~.

(4) ~~((Partnership grant programs seeking funds to operate))~~ Alternative route programs operating route four programs shall enroll individuals with baccalaureate degrees, who are employed in the district at the time of application, or who hold conditional

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teaching certificates or emergency substitute certificates. Cohorts of candidates for this route shall attend an intensive summer teaching academy, followed by a full year employed by a district in a mentored internship. If employed on a conditional certificate, the intern may serve as the teacher of record, supported by a well-trained mentor. In addition, partnership programs shall uphold entry requirements for candidates that include:

(a) A baccalaureate degree from a regionally accredited institution of higher education. The individual's grade point average may be considered as a selection factor;

(b) Successful completion of the ~~((content test, once the state content test is available))~~ subject matter assessment required by RCW 28A.410.220(3);

(c) External validation of qualifications, including demonstrated successful experience with students or children, such as reference letters and letters of support from previous employers;

(d) Meeting the age, good moral character, and personal fitness requirements adopted by rule for teachers; and

(e) Successful passage of statewide basic skills exam ~~((s, when available)).~~

(5) Applicants for alternative route programs who are eligible veterans or national guard members and who meet the entry requirements for the alternative route program for which application is made shall be given preference in admission.

**Sec. 505.** RCW 28A.660.050 and 2009 c 539 s 3 and 2009 c 192 s 2 are each reenacted and amended to read as follows:

Subject to the availability of amounts appropriated for these purposes, the conditional scholarship programs in this chapter are created under the following guidelines:

(1) The programs shall be administered by the higher education coordinating board. In administering the programs, the higher education coordinating board has the following powers and duties:

(a) To adopt necessary rules and develop guidelines to administer the programs;

(b) To collect and manage repayments from participants who do not meet their service obligations; and

(c) To accept grants and donations from public and private sources for the programs.

(2) Requirements for participation in the conditional scholarship programs are as provided in this subsection (2).

(a) The alternative route conditional scholarship program is limited to interns of ~~((the partnership grant))~~ professional educator standards board-approved alternative routes to teaching programs under RCW 28A.660.040. For fiscal year 2011, priority must be given to fiscal year 2010 participants in the alternative route partnership program. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment in alternative certification routes through ~~((the partnership grant))~~ a professional educator standards board-approved program;

(ii) Continue to make satisfactory progress toward completion of the alternative route certification program and receipt of a residency teaching certificate; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed eight thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of resident undergraduate tuition and fee increases at the state universities as defined in RCW 28B.10.016.

(b) The pipeline for paraeducators conditional scholarship program is limited to qualified paraeducators as provided by RCW 28A.660.042. In order to receive conditional scholarship awards, recipients shall:

(i) Be accepted and maintain enrollment at a community and technical college for no more than two years and attain an associate of arts degree;

(ii) Continue to make satisfactory progress toward completion of an associate of arts degree. This progress requirement is a condition for eligibility into a route one program of the alternative routes to teacher certification program for a mathematics, special education, or English as a second language endorsement; and

(iii) Receive no more than the annual amount of the scholarship, not to exceed four thousand dollars, for the cost of tuition, fees, and educational expenses, including books, supplies, and transportation for the alternative route certification program in which the recipient is enrolled. The board may adjust the annual award by the average rate of tuition and fee increases at the state community and technical colleges.

(c) The retooling to teach mathematics and science conditional scholarship program is limited to current K-12 teachers ~~((and individuals having an elementary education certificate but who are not employed in positions requiring an elementary education certificate as provided by RCW 28A.660.045)).~~ In order to receive conditional scholarship awards:

(i) Individuals currently employed as teachers shall pursue a middle level mathematics or science, or secondary mathematics or science endorsement; or

(ii) Individuals who are certificated with an elementary education endorsement ~~((but not employed in positions requiring an elementary education certificate.))~~ shall pursue an endorsement in middle level mathematics or science, or both; and

(iii) Individuals shall use one of the pathways to endorsement processes to receive a mathematics or science endorsement, or both, which shall include passing a mathematics or science endorsement test, or both tests, plus observation and completing applicable coursework to attain the proper endorsement; and

(iv) Individuals shall receive no more than the annual amount of the scholarship, not to exceed three thousand dollars, for the cost of tuition, test fees, and educational expenses, including books, supplies, and transportation for the endorsement pathway being pursued.

(3) The Washington professional educator standards board shall select individuals to receive conditional scholarships. In selecting recipients, preference shall be given to eligible veterans or national guard members.

(4) For the purpose of this chapter, a conditional scholarship is a loan that is forgiven in whole or in part in exchange for service as a certificated teacher employed in a Washington state K-12 public school. The state shall forgive one year of loan obligation for every two years a recipient teaches in a public school. Recipients who fail to continue a course of study leading to residency teacher certification or cease to teach in a public school in the state of Washington in their endorsement area are required to repay the remaining loan principal with interest.

(5) Recipients who fail to fulfill the required teaching obligation are required to repay the remaining loan principal with interest and any other applicable fees. The higher education coordinating board shall adopt rules to define the terms for repayment, including applicable interest rates, fees, and deferments.

(6) The higher education coordinating board may deposit all appropriations, collections, and any other funds received for the program in this chapter in the future teachers conditional scholarship account authorized in RCW 28B.102.080.

**NEW SECTION. Sec. 506.** A new section is added to chapter 28A.410 RCW to read as follows:

Beginning with the 2010 school year and annually thereafter, each educational service district, in cooperation with the professional educator standards board, must convene

representatives from school districts within that region and professional educator standards board- approved educator preparation programs to review district and regional educator workforce data, make biennial projections of certificate staffing needs, and identify how recruitment and enrollment plans in educator preparation programs reflect projected need.

**Sec. 507.** RCW 28B.76.335 and 2007 c 396 s 17 are each amended to read as follows:

As part of the state needs assessment process conducted by the board in accordance with RCW 28B.76.230, the board shall, in collaboration with the professional educator standards board, assess the need for additional (~~baccalaureate~~) degree and certificate programs in Washington that specialize in teacher preparation (~~in mathematics, science, and technology~~) to meet regional or subject area shortages. If the board determines that there is a need for additional programs, then the board shall encourage the appropriate institutions of higher education or institutional sectors to create such a program.

**NEW SECTION. Sec. 508.** A new section is added to chapter 28B.76 RCW to read as follows:

(1) The board must establish boundaries for service regions for institutions of higher education as defined in RCW 28B.10.016 implementing professional educator standards board-approved educator preparation programs. Regions shall be established to encourage and support, not exclude, the reach of public institutions of higher education across the state.

(2) Based on the data in the assessment in RCW 28B.76.230 and 28B.76.335, the board shall determine whether reasonable teacher preparation program access for prospective teachers is available in each region. If access is determined to be inadequate in a region, the institution of higher education responsible for the region shall submit a plan for meeting the access need to the board.

(3) Partnerships with other teacher preparation program providers and the use of appropriate technology shall be considered. The board shall review the plan and, as appropriate, assist the institution in developing support and resources for implementing the plan.

**NEW SECTION. Sec. 509.** In conjunction with the regional needs assessments in sections 506 through 508 of this act, the council of presidents shall convene an interinstitutional work group to implement the plans developed under section 601, chapter 564, Laws of 2009 to increase the number of mathematics and science teacher endorsements and certificates. The work group must collaborate in evaluating regional needs and identifying strategies to meet those needs. The council of presidents shall report to the education and higher education committees of the legislature on demonstrated progress toward achieving outcomes identified in the plans no later than December 31, 2011.

**NEW SECTION. Sec. 510.** The following acts or parts of acts are each repealed:

(1) RCW 28A.660.010 (Partnership grant program) and 2004 c 23 s 1 & 2001 c 158 s 2;

(2) RCW 28A.415.100 (Student teaching centers--Legislative recognition--Intent) and 1991 c 258 s 1;

(3) RCW 28A.415.105 (Definitions) and 2006 c 263 s 811, 1995 c 335 s 403, & 1991 c 258 s 2;

(4) RCW 28A.415.125 (Network of student teaching centers) and 2006 c 263 s 812 & 1991 c 258 s 6;

(5) RCW 28A.415.130 (Allocation of funds for student teaching centers) and 2006 c 263 s 813 & 1991 c 258 s 7;

(6) RCW 28A.415.135 (Alternative means of teacher placement) and 1991 c 258 s 8;

(7) RCW 28A.415.140 (Field experiences) and 1991 c 258 s 9;

(8) RCW 28A.415.145 (Rules) and 2006 c 263 s 814 & 1991 c 258 s 10; and

(9) RCW 28A.660.030 (Partnership grants--Selection--Administration) and 2004 c 23 s 3, 2003 c 410 s 2, & 2001 c 158 s 4.

## PART VI COMMON CORE STANDARDS

**NEW SECTION. Sec. 601.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) By August 2, 2010, the superintendent of public instruction may revise the state essential academic learning requirements authorized under RCW 28A.655.070 for mathematics, reading, writing, and communication by provisionally adopting a common set of standards for students in grades kindergarten through twelve. The revised state essential academic learning requirements may be substantially identical with the standards developed by a multistate consortium in which Washington participated, must be consistent with the requirements of RCW 28A.655.070, and may include additional standards if the additional standards do not exceed fifteen percent of the standards for each content area. However, the superintendent of public instruction shall not take steps to implement the provisionally adopted standards until the education committees of the house of representatives and the senate have an opportunity to review the standards.

(2) By January 1, 2011, the superintendent of public instruction shall submit to the education committees of the house of representatives and the senate:

(a) A detailed comparison of the provisionally adopted standards and the state essential academic learning requirements as of the effective date of this section, including the comparative level of rigor and specificity of the standards and the implications of any identified differences; and

(b) An estimated timeline and costs to the state and to school districts to implement the provisionally adopted standards, including providing necessary training, realignment of curriculum, adjustment of state assessments, and other actions.

(3) The superintendent may implement the revisions to the essential academic learning requirements under this section after the 2011 legislative session unless otherwise directed by the legislature.

## PART VII PARENTS AND COMMUNITY

**NEW SECTION. Sec. 701.** A new section is added to chapter 28A.605 RCW to read as follows:

School districts are encouraged to strengthen family, school, and community partnerships by creating spaces in school buildings, if space is available, where students and families can access the services they need, such as after-school tutoring, dental and health services, counseling, or clothing and food banks.

**NEW SECTION. Sec. 702.** A new section is added to chapter 28A.655 RCW to read as follows:

(1) Beginning with the 2010-11 school year, each school shall conduct outreach and seek feedback from a broad and diverse range of parents, other individuals, and organizations in the community regarding their experiences with the school. The school shall summarize the responses in its annual report under RCW 28A.655.110.

(2) The office of the superintendent of public instruction shall create a working group with representatives of organizations representing parents, teachers, and principals as well as diverse communities. The working group shall also include a representative from the achievement gap oversight and accountability committee. By September 1, 2010, the working group shall develop model feedback tools and strategies that school districts may use to facilitate the feedback process required in

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subsection (1) of this section. The model tools and strategies are intended to provide assistance to school districts. School districts are encouraged to adapt the models or develop unique tools and strategies that best fit the circumstances in their communities.

**Sec. 703.** RCW 28A.655.110 and 1999 c 388 s 303 are each amended to read as follows:

(1) Beginning with the 1994-95 school year, to provide the local community and electorate with access to information on the educational programs in the schools in the district, each school shall publish annually a school performance report and deliver the report to each parent with children enrolled in the school and make the report available to the community served by the school. The annual performance report shall be in a form that can be easily understood and be used by parents, guardians, and other members of the community who are not professional educators to make informed educational decisions. As data from the assessments in RCW 28A.655.060 becomes available, the annual performance report should enable parents, educators, and school board members to determine whether students in the district's schools are attaining mastery of the student learning goals under RCW 28A.150.210, and other important facts about the schools' performance in assisting students to learn. The annual report shall make comparisons to a school's performance in preceding years (~~and shall include school level goals under RCW 28A.655.050~~), student performance relative to the goals and the percentage of students performing at each level of the assessment, a comparison of student performance at each level of the assessment to the previous year's performance, and information regarding school-level plans to achieve the goals.

(2) The annual performance report shall include, but not be limited to: (a) A brief statement of the mission of the school and the school district; (b) enrollment statistics including student demographics; (c) expenditures per pupil for the school year; (d) a summary of student scores on all mandated tests; (e) a concise annual budget report; (f) student attendance, graduation, and dropout rates; (g) information regarding the use and condition of the school building or buildings; (h) a brief description of the learning improvement plans for the school; (i) a summary of the feedback from parents and community members obtained under section 702 of this act; and ~~((+))~~ (j) an invitation to all parents and citizens to participate in school activities.

(3) The superintendent of public instruction shall develop by June 30, 1994, and update periodically, a model report form, which shall also be adapted for computers, that schools may use to meet the requirements of subsections (1) and (2) of this section. In order to make school performance reports broadly accessible to the public, the superintendent of public instruction, to the extent feasible, shall make information on each school's report available on or through the superintendent's internet web site.

**NEW SECTION. Sec. 704.** A new section is added to chapter 28A.300 RCW to read as follows:

There is a sizeable body of research positively supporting the involvement of parents taking an engaged and active role in their child's education. Therefore, the legislature intends to provide state recognition by the center for the improvement of student learning within the office of the superintendent of public instruction for schools that increase the level of direct parental involvement with their child's education. By September 1, 2010, the center for the improvement of student learning shall determine measures that can be used to evaluate the level of parental involvement in a school. The center for the improvement of student learning shall collaborate with school district family and community outreach programs and educational service districts to identify and highlight successful models and practices of parent involvement.

## PART VIII

## COLLECTIVE BARGAINING

**Sec. 801.** RCW 41.56.100 and 1989 c 45 s 1 are each amended to read as follows:

(1) A public employer shall have the authority to engage in collective bargaining with the exclusive bargaining representative and no public employer shall refuse to engage in collective bargaining with the exclusive bargaining representative (~~PROVIDED, That nothing contained herein shall require any~~), However, a public employer is not required to bargain collectively with any bargaining representative concerning any matter which by ordinance, resolution, or charter of said public employer has been delegated to any civil service commission or personnel board similar in scope, structure, and authority to the board created by chapter 41.06 RCW.

(2) Upon the failure of the public employer and the exclusive bargaining representative to conclude a collective bargaining agreement, any matter in dispute may be submitted by either party to the commission. This subsection does not apply to negotiations and mediations conducted between a school district employer and an exclusive bargaining representative under section 105 of this act.

(3) If a public employer implements its last and best offer where there is no contract settlement, allegations that either party is violating the terms of the implemented offer shall be subject to grievance arbitration procedures if and as such procedures are set forth in the implemented offer, or, if not in the implemented offer, if and as such procedures are set forth in the parties' last contract.

**NEW SECTION. Sec. 802.** A new section is added to chapter 41.56 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**NEW SECTION. Sec. 803.** A new section is added to chapter 41.59 RCW to read as follows:

All collective bargaining agreements entered into between a school district employer and school district employees under this chapter after the effective date of this section, as well as bargaining agreements existing on the effective date of this section but renewed or extended after the effective date of this section, shall be consistent with section 105 of this act.

**Sec. 804.** RCW 41.59.120 and 1975 1st ex.s. c 288 s 13 are each amended to read as follows:

(1) Either an employer or an exclusive bargaining representative may declare that an impasse has been reached between them in collective bargaining and may request the commission to appoint a mediator for the purpose of assisting them in reconciling their differences and resolving the controversy on terms which are mutually acceptable. If the commission determines that its assistance is needed, not later than five days after the receipt of a request therefor, it shall appoint a mediator in accordance with rules and regulations for such appointment prescribed by the commission. The mediator shall meet with the parties or their representatives, or both, forthwith, either jointly or separately, and shall take such other steps as he may deem appropriate in order to persuade the parties to resolve their differences and effect a mutually acceptable agreement. The mediator, without the consent of both parties, shall not make findings of fact or recommend terms of settlement. The services of the mediator, including, if any, per diem expenses, shall be provided by the commission without cost to the parties. Nothing in this subsection (1) shall be construed to prevent the parties from mutually agreeing upon their own mediation procedure, and in the event of such agreement, the commission shall not appoint its own

mediator unless failure to do so would be inconsistent with the effectuation of the purposes and policy of this chapter.

(2) If the mediator is unable to effect settlement of the controversy within ten days after his or her appointment, either party, by written notification to the other, may request that their differences be submitted to fact-finding with recommendations, except that the time for mediation may be extended by mutual agreement between the parties. Within five days after receipt of the aforesaid written request for fact-finding, the parties shall select a person to serve as fact finder and obtain a commitment from that person to serve. If they are unable to agree upon a fact finder or to obtain such a commitment within that time, either party may request the commission to designate a fact finder. The commission, within five days after receipt of such request, shall designate a fact finder in accordance with rules and regulations for such designation prescribed by the commission. The fact finder so designated shall not be the same person who was appointed mediator pursuant to subsection (1) of this section without the consent of both parties.

The fact finder, within five days after his appointment, shall meet with the parties or their representatives, or both, either jointly or separately, and make inquiries and investigations, hold hearings, and take such other steps as he may deem appropriate. For the purpose of such hearings, investigations and inquiries, the fact finder shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence. If the dispute is not settled within ten days after his appointment, the fact finder shall make findings of fact and recommend terms of settlement within thirty days after his appointment, which recommendations shall be advisory only.

(3) Such recommendations, together with the findings of fact, shall be submitted in writing to the parties and the commission privately before they are made public. Either the commission, the fact finder, the employer, or the exclusive bargaining representative may make such findings and recommendations public if the dispute is not settled within five days after their receipt from the fact finder.

(4) The costs for the services of the fact finder, including, if any, per diem expenses and actual and necessary travel and subsistence expenses, and any other incurred costs, shall be borne by the commission without cost to the parties.

(5) Nothing in this section shall be construed to prohibit an employer and an exclusive bargaining representative from agreeing to substitute, at their own expense, their own procedure for resolving impasses in collective bargaining for that provided in this section or from agreeing to utilize for the purposes of this section any other governmental or other agency or person in lieu of the commission.

(6) Any fact finder designated by an employer and an exclusive representative or the commission for the purposes of this section shall be deemed an agent of the state.

(7) This section does not apply to negotiations and mediations conducted under section 105 of this act.

## PART IX CLOSING THE ACHIEVEMENT GAP

**Sec. 901.** RCW 28A.300.136 and 2009 c 468 s 2 are each amended to read as follows:

(1) An achievement gap oversight and accountability committee is created to synthesize the findings and recommendations from the 2008 achievement gap studies into an implementation plan, and to recommend policies and strategies to the superintendent of public instruction, the professional educator standards board, and the state board of education to close the achievement gap.

(2) The committee shall recommend specific policies and strategies in at least the following areas:

(a) Supporting and facilitating parent and community involvement and outreach;

(b) Enhancing the cultural competency of current and future educators and the cultural relevance of curriculum and instruction;

(c) Expanding pathways and strategies to prepare and recruit diverse teachers and administrators;

(d) Recommending current programs and resources that should be redirected to narrow the gap;

(e) Identifying data elements and systems needed to monitor progress in closing the gap;

(f) Making closing the achievement gap part of the school and school district improvement process; and

(g) Exploring innovative school models that have shown success in closing the achievement gap.

(3) Taking a multidisciplinary approach, the committee may seek input and advice from other state and local agencies and organizations with expertise in health, social services, gang and violence prevention, substance abuse prevention, and other issues that disproportionately affect student achievement and student success.

(4) The achievement gap oversight and accountability committee shall be composed of the following members:

(a) The chairs and ranking minority members of the house and senate education committees, or their designees;

(b) One additional member of the house of representatives appointed by the speaker of the house and one additional member of the senate appointed by the president of the senate;

(c) A representative of the office of the education ombudsman;

(d) A representative of the center for the improvement of student learning in the office of the superintendent of public instruction;

(e) A representative of federally recognized Indian tribes whose traditional lands and territories lie within the borders of Washington state, designated by the federally recognized tribes; and

(f) Four members appointed by the governor in consultation with the state ethnic commissions, who represent the following populations: African-Americans, Hispanic Americans, Asian Americans, and Pacific Islander Americans.

(5) The governor and the tribes are encouraged to designate members who have experience working in and with schools.

(6) The committee may convene ad hoc working groups to obtain additional input and participation from community members. Members of ad hoc working groups shall serve without compensation and shall not be reimbursed for travel or other expenses.

(7) The chair or co-chairs of the committee shall be selected by the members of the committee. Staff support for the committee shall be provided by the center for the improvement of student learning. Members of the committee shall serve without compensation but must be reimbursed as provided in RCW 43.03.050 and 43.03.060. Legislative members of the committee shall be reimbursed for travel expenses in accordance with RCW 44.04.120.

(8) The superintendent of public instruction, the state board of education, the professional educator standards board, and the quality education council shall work collaboratively with the achievement gap oversight and accountability committee to close the achievement gap.

## PART X MISCELLANEOUS PROVISIONS

NEW SECTION. **Sec. 1001.** RCW 28A.305.225 is recodified as a section in the chapter created in section 1002 of this act.

NEW SECTION. **Sec. 1002.** Sections 101 through 110 and 112 through 114 of this act constitute a new chapter in Title 28A RCW."

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Correct the title.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

Senator McAuliffe moved that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696.

Senators McAuliffe and King spoke in favor of the motion.

The President declared the question before the Senate to be the motion by Senator McAuliffe that the Senate concur in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696.

The motion by Senator McAuliffe carried and the Senate concurred in the House amendment(s) to Engrossed Second Substitute Senate Bill No. 6696 by voice vote.

The President declared the question before the Senate to be the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House.

ROLL CALL

The Secretary called the roll on the final passage of Engrossed Second Substitute Senate Bill No. 6696, as amended by the House, and the bill passed the Senate by the following vote: Yeas, 46; Nays, 1; Absent, 0; Excused, 2.

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

Voting nay: Senator Kastama

Excused: Senators McCaslin and Roach

ENGROSSED SECOND SUBSTITUTE SENATE BILL NO. 6696, as amended by the House, 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.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has adopted

HOUSE CONCURRENT RESOLUTION 4408.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MOTION

On motion of Senator Eide, the Senate advanced to the sixth order of business for the purpose of considering House Concurrent Resolution No. 4408.

SECOND READING

HOUSE CONCURRENT RESOLUTION NO. 4408, by Representatives Kessler and Kretz

Returning bills to their house of origin.

The measure was read the second time.

MOTION

On motion of Senator Eide, the rules were suspended, House Concurrent Resolution No. 4408 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 adoption of House Concurrent Resolution No. 4408.

HOUSE CONCURRENT RESOLUTION NO. 4408 was adopted by voice vote.

MOTION

On motion of Senator Eide and without objection, all measures remaining on the second and third reading calendars were returned to the Committee on Rules.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House concurred in the Senate amendments to the following bills and passed the bills as amended by the Senate:

SECOND SUBSTITUTE HOUSE BILL 2731,

SUBSTITUTE HOUSE BILL 2776.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The House has adopted

SENATE CONCURRENT RESOLUTION 8412.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6504,

ENGROSSED SUBSTITUTE SENATE BILL 6658,

ENGROSSED SECOND SUBSTITUTE SENATE BILL 6696,

SENATE BILL 6855,

SENATE CONCURRENT RESOLUTION 8412.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:

SECOND SUBSTITUTE HOUSE BILL 2436,

HOUSE BILL 3061.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

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March 11, 2010

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MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE SENATE BILL 5798,  
ENGROSSED SUBSTITUTE SENATE BILL 5902,  
ENGROSSED SECOND SUBSTITUTE SENATE BILL  
6267,  
SUBSTITUTE SENATE BILL 6280,  
SUBSTITUTE SENATE BILL 6293,  
SUBSTITUTE SENATE BILL 6339,  
SUBSTITUTE SENATE BILL 6355,  
ENGROSSED SUBSTITUTE SENATE BILL 6604,  
ENGROSSED SENATE BILL 6610,  
SUBSTITUTE SENATE BILL 6759,  
ENGROSSED SUBSTITUTE SENATE BILL 6774,  
SENATE BILL 6833.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
1096,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2658,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
1096,  
SECOND SUBSTITUTE HOUSE BILL 2436,  
ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
2658,  
ENGROSSED SUBSTITUTE HOUSE BILL 2876,  
HOUSE BILL 3061,  
SUBSTITUTE HOUSE BILL 3124,  
ENGROSSED SUBSTITUTE HOUSE BILL 3178,  
ENGROSSED SUBSTITUTE HOUSE BILL 3209.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
HOUSE CONCURRENT RESOLUTION NO. 4408.  
and the same is herewith transmitted.

MR. PRESIDENT:

The Speaker has signed:  
SENATE CONCURRENT RESOLUTION NO. 8412.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SUBSTITUTE SENATE BILL 6345.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
SUBSTITUTE SENATE BILL NO. 6345.  
and the same is herewith transmitted.

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

The Speaker has signed:  
SECOND SUBSTITUTE HOUSE BILL 2731,  
SUBSTITUTE HOUSE BILL 2776.  
and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

SIGNED BY THE PRESIDENT

The President signed:

SECOND SUBSTITUTE HOUSE BILL 2731,  
SUBSTITUTE HOUSE BILL 2776,  
HOUSE CONCURRENT RESOLUTION 4408.

MESSAGE FROM THE HOUSE

March 11, 2010

MR. PRESIDENT:

Under the provisions of HOUSE CONCURRENT  
RESOLUTION NO. 4408, the following Senate bills are returned  
to the Senate:

SUBSTITUTE SENATE BILL 5237,  
SUBSTITUTE SENATE BILL 5376,  
SUBSTITUTE SENATE BILL 5383,  
SENATE BILL 5411,  
ENGROSSED SUBSTITUTE SENATE BILL 5424,  
ENGROSSED SENATE BILL 5523,  
SUBSTITUTE SENATE BILL 5548,  
ENGROSSED SUBSTITUTE SENATE BILL 5555,  
SENATE BILL 5621,  
SUBSTITUTE SENATE BILL 5668,  
SUBSTITUTE SENATE BILL 5780,  
ENGROSSED SUBSTITUTE SENATE BILL 5899,



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SENATE BILL 5908,  
 ENGROSSED SUBSTITUTE SENATE BILL 6051,  
 SENATE BILL 6103,  
 SENATE BILL 6196,  
 SUBSTITUTE SENATE BILL 6205,  
 SUBSTITUTE SENATE BILL 6217,  
 SENATE BILL 6220,  
 SUBSTITUTE SENATE BILL 6224,  
 SUBSTITUTE SENATE BILL 6231,  
 ENGROSSED SENATE BILL 6240,  
 ENGROSSED SUBSTITUTE SENATE BILL 6244,  
 ENGROSSED SENATE BILL 6263,  
 SENATE BILL 6265,  
 SENATE BILL 6269,  
 SENATE BILL 6277,  
 ENGROSSED SUBSTITUTE SENATE BILL 6289,  
 SUBSTITUTE SENATE BILL 6309,  
 SECOND SUBSTITUTE SENATE BILL 6316,  
 SUBSTITUTE SENATE BILL 6338,  
 SUBSTITUTE SENATE BILL 6360,  
 ENGROSSED SUBSTITUTE SENATE BILL 6364,  
 SUBSTITUTE SENATE BILL 6374,  
 SUBSTITUTE SENATE BILL 6380,  
 SUBSTITUTE SENATE BILL 6393.

SECOND SUBSTITUTE SENATE BILL 6675,  
 SECOND SUBSTITUTE SENATE BILL 6678,  
 SUBSTITUTE SENATE BILL 6686,  
 SUBSTITUTE SENATE BILL 6698,  
 SUBSTITUTE SENATE BILL 6706,  
 SUBSTITUTE SENATE BILL 6712,  
 SENATE BILL 6720,  
 SUBSTITUTE SENATE BILL 6721,  
 SUBSTITUTE SENATE BILL 6727,  
 ENGROSSED SUBSTITUTE SENATE BILL 6733,  
 ENGROSSED SUBSTITUTE SENATE BILL 6737,  
 SUBSTITUTE SENATE BILL 6747,  
 ENGROSSED SENATE BILL 6754,  
 SECOND SUBSTITUTE SENATE BILL 6760,  
 ENGROSSED SENATE BILL 6762,  
 ENGROSSED SUBSTITUTE SENATE BILL 6778,  
 SUBSTITUTE SENATE BILL 6788,  
 SECOND SUBSTITUTE SENATE BILL 6790,  
 SENATE BILL 6815,  
 SECOND ENGROSSED SENATE BILL 6843,  
 SUBSTITUTE SENATE BILL 6844,  
 ENGROSSED SENATE BILL 6870,  
 SUBSTITUTE SENATE BILL 6874,  
 ENGROSSED SUBSTITUTE SENATE BILL 8218,  
 SENATE JOINT RESOLUTION 8225.

and the same are herewith transmitted.

and the same are herewith transmitted.

BARBARA BAKER, Chief Clerk

BARBARA BAKER, Chief Clerk

MESSAGE FROM THE HOUSE

MOTION

March 11, 2010

MR. PRESIDENT:

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following Senate bills are returned to the Senate:

SENATE BILL 5409,  
 ENGROSSED SUBSTITUTE SENATE BILL 6402,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL 6409,  
 SUBSTITUTE SENATE BILL 6416,  
 ENGROSSED SUBSTITUTE SENATE BILL 6424,  
 ENGROSSED SUBSTITUTE SENATE BILL 6426,  
 ENGROSSED SENATE BILL 6430,  
 SUBSTITUTE SENATE BILL 6433,  
 ENGROSSED SUBSTITUTE SENATE BILL 6449,  
 ENGROSSED SENATE BILL 6462,  
 ENGROSSED SUBSTITUTE SENATE BILL 6503,  
 SECOND SUBSTITUTE SENATE BILL 6515,  
 SUBSTITUTE SENATE BILL 6521,  
 ENGROSSED SUBSTITUTE SENATE BILL 6533,  
 SUBSTITUTE SENATE BILL 6550,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL 6562,  
 SUBSTITUTE SENATE BILL 6570,  
 SUBSTITUTE SENATE BILL 6572,  
 ENGROSSED SECOND SUBSTITUTE SENATE BILL 6579,  
 SUBSTITUTE SENATE BILL 6580,  
 ENGROSSED SUBSTITUTE SENATE BILL 6603,  
 ENGROSSED SUBSTITUTE SENATE BILL 6621,  
 SUBSTITUTE SENATE BILL 6629,  
 ENGROSSED SENATE BILL 6643,  
 SUBSTITUTE SENATE BILL 6644,  
 ENGROSSED SUBSTITUTE SENATE BILL 6656,  
 SUBSTITUTE SENATE BILL 6662,

On motion of Senator Eide, the reading of the Journal for the 60<sup>th</sup> day of the 2010 session of the 61<sup>st</sup> Legislature was dispensed with and it was approved.

MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

ENGROSSED HOUSE BILL 1139,  
 SECOND SUBSTITUTE HOUSE BILL 1162,  
 SECOND SUBSTITUTE HOUSE BILL 1180,  
 SUBSTITUTE HOUSE BILL 1203,  
 SUBSTITUTE HOUSE BILL 1329,  
 SECOND SUBSTITUTE HOUSE BILL 1357,  
 SECOND ENGROSSED HOUSE BILL 1547,  
 SECOND SUBSTITUTE HOUSE BILL 1572,  
 ENGROSSED HOUSE BILL 1690,  
 HOUSE BILL 1697,  
 HOUSE BILL 1757,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1775,  
 HOUSE BILL 1785,  
 HOUSE BILL 1830,  
 SUBSTITUTE HOUSE BILL 1831,  
 SUBSTITUTE HOUSE BILL 1838,  
 ENGROSSED SUBSTITUTE HOUSE BILL 1885,  
 SUBSTITUTE HOUSE BILL 1900,  
 SUBSTITUTE HOUSE BILL 1949,  
 SECOND SUBSTITUTE HOUSE BILL 1985,  
 SUBSTITUTE HOUSE BILL 2138,  
 SUBSTITUTE HOUSE BILL 2224,  
 ENGROSSED HOUSE BILL 2360,  
 SUBSTITUTE HOUSE BILL 2397,  
 HOUSE BILL 2398,

SUBSTITUTE HOUSE BILL 2404,  
 SUBSTITUTE HOUSE BILL 2408,  
 SUBSTITUTE HOUSE BILL 2409,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2414,  
 SUBSTITUTE HOUSE BILL 2416,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2427,  
 HOUSE BILL 2435,  
 HOUSE BILL 2437,  
 SUBSTITUTE HOUSE BILL 2439,  
 ENGROSSED HOUSE BILL 2444,  
 HOUSE BILL 2456,  
 SUBSTITUTE HOUSE BILL 2457,  
 HOUSE BILL 2461,  
 HOUSE BILL 2462,  
 HOUSE BILL 2470,  
 SUBSTITUTE HOUSE BILL 2471,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2480,  
 HOUSE BILL 2483,  
 SUBSTITUTE HOUSE BILL 2486,  
 SUBSTITUTE HOUSE BILL 2488,  
 HOUSE BILL 2492,  
 HOUSE BILL 2495,  
 SUBSTITUTE HOUSE BILL 2497,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2499.

#### MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

ENGROSSED SUBSTITUTE HOUSE BILL 2504,  
 HOUSE BILL 2511,  
 SUBSTITUTE HOUSE BILL 2512,  
 SUBSTITUTE HOUSE BILL 2514,  
 SUBSTITUTE HOUSE BILL 2516,  
 SUBSTITUTE HOUSE BILL 2517,  
 SUBSTITUTE HOUSE BILL 2524,  
 HOUSE BILL 2528,  
 SUBSTITUTE HOUSE BILL 2556,  
 ENGROSSED HOUSE BILL 2561,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2565,  
 SUBSTITUTE HOUSE BILL 2566,  
 HOUSE BILL 2567,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2571,  
 SUBSTITUTE HOUSE BILL 2580,  
 SUBSTITUTE HOUSE BILL 2589,  
 HOUSE BILL 2595,  
 HOUSE BILL 2605,  
 HOUSE BILL 2611,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2617,  
 SECOND SUBSTITUTE HOUSE BILL 2623,  
 SUBSTITUTE HOUSE BILL 2624,  
 SUBSTITUTE HOUSE BILL 2627,  
 HOUSE BILL 2629,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2630,  
 SUBSTITUTE HOUSE BILL 2636,  
 HOUSE BILL 2638,  
 HOUSE BILL 2642,  
 SECOND SUBSTITUTE HOUSE BILL 2670,  
 HOUSE BILL 2676,  
 HOUSE BILL 2677,  
 SUBSTITUTE HOUSE BILL 2683,  
 THIRD SUBSTITUTE HOUSE BILL 2687,

SUBSTITUTE HOUSE BILL 2688,  
 HOUSE BILL 2694,  
 HOUSE BILL 2701,  
 SUBSTITUTE HOUSE BILL 2706,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2716,  
 HOUSE BILL 2720,  
 SUBSTITUTE HOUSE BILL 2721,  
 SUBSTITUTE HOUSE BILL 2722,  
 SUBSTITUTE HOUSE BILL 2739,  
 HOUSE BILL 2750,  
 HOUSE BILL 2751,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2753,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2756,  
 SUBSTITUTE HOUSE BILL 2768,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2782,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2790,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2793,  
 SUBSTITUTE HOUSE BILL 2804,  
 HOUSE BILL 2817,  
 SUBSTITUTE HOUSE BILL 2818,  
 HOUSE BILL 2848,  
 SUBSTITUTE HOUSE BILL 2852,  
 SECOND SUBSTITUTE HOUSE BILL 2854,  
 SUBSTITUTE HOUSE BILL 2863,  
 SUBSTITUTE HOUSE BILL 2865,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2875,  
 SECOND SUBSTITUTE HOUSE BILL 2882,  
 SUBSTITUTE HOUSE BILL 2884,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2886,  
 HOUSE BILL 2888,  
 HOUSE BILL 2898.

#### MOTION

Under the provisions of HOUSE CONCURRENT RESOLUTION NO. 4408, the following House Bills were returned to the House of Representatives:

HOUSE BILL 2904,  
 SECOND ENGROSSED SUBSTITUTE HOUSE BILL  
 2912,  
 HOUSE BILL 2918,  
 SUBSTITUTE HOUSE BILL 2930,  
 SUBSTITUTE HOUSE BILL 2933,  
 HOUSE BILL 2937,  
 SUBSTITUTE HOUSE BILL 2941,  
 HOUSE BILL 2942,  
 HOUSE BILL 2947,  
 ENGROSSED SUBSTITUTE HOUSE BILL 2954,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 2956,  
 ENGROSSED HOUSE BILL 2969,  
 HOUSE BILL 2984,  
 HOUSE BILL 2987,  
 HOUSE BILL 2989,  
 SUBSTITUTE HOUSE BILL 2997,  
 SUBSTITUTE HOUSE BILL 3001,  
 SUBSTITUTE HOUSE BILL 3003,  
 ENGROSSED HOUSE BILL 3023,  
 ENGROSSED SECOND SUBSTITUTE HOUSE BILL  
 3024,  
 SUBSTITUTE HOUSE BILL 3039,  
 ENGROSSED SUBSTITUTE HOUSE BILL 3048,  
 HOUSE BILL 3056,  
 SUBSTITUTE HOUSE BILL 3060,

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ENGROSSED SUBSTITUTE HOUSE BILL 3067,  
HOUSE BILL 3068,  
ENGROSSED SUBSTITUTE HOUSE BILL 3072,  
HOUSE BILL 3095,  
ENGROSSED SUBSTITUTE HOUSE BILL 3132,  
ENGROSSED HOUSE BILL 3168,  
ENGROSSED SUBSTITUTE HOUSE BILL 3175,  
ENGROSSED SUBSTITUTE HOUSE BILL 3182,  
ENGROSSED SUBSTITUTE HOUSE BILL 3186,  
SUBSTITUTE HOUSE BILL 3201,  
HOUSE JOINT MEMORIAL 4024,  
HOUSE JOINT MEMORIAL 4025,  
HOUSE JOINT MEMORIAL 4027.

MOTION

At 8:42 p.m., on motion of Senator Eide, the 2010 Regular Session of the Sixty-First Legislature adjourned SINE DIE.

BRAD OWEN, President of the Senate

THOMAS HOEMANN, Secretary of the Senate

Draft

1096-S2		2409-S	
Messages .....	62, 97	Other Action .....	100
Other Action .....	60	2414-S	
President Signed .....	97	Other Action .....	100
Second Reading .....	60	2416-S	
Third Reading Final Passage .....	60	Other Action .....	100
1139		2424-S	
Other Action .....	99	Messages .....	1
1162-S2		President Signed .....	67
Other Action .....	99	Speaker Signed .....	62
1180-S2		2427-S	
Other Action .....	99	Other Action .....	100
1203-S		2435	
Other Action .....	99	Other Action .....	100
1329-S		2436-S2	
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1357-S2		Other Action .....	12
Other Action .....	99	President Signed .....	97
1547		Second Reading .....	11
Other Action .....	99	Third Reading Final Passage .....	13
1572-S2		2437	
Other Action .....	99	Other Action .....	100
1597-S2		2439-S	
President Signed .....	67	Other Action .....	100
Speaker Signed .....	62	2444	
1690		Other Action .....	100
Other Action .....	99	2456	
1697		Other Action .....	100
Other Action .....	99	2457-S	
1757		Other Action .....	100
Other Action .....	99	2461	
1775-S		Other Action .....	100
Other Action .....	99	2462	
1785		Other Action .....	100
Other Action .....	99	2470	
1830		Other Action .....	100
Other Action .....	99	2471-S	
1831-S		Other Action .....	100
Other Action .....	99	2480-S2	
1838-S		Other Action .....	100
Other Action .....	99	2483	
1885-S		Other Action .....	100
Other Action .....	99	2486-S	
1900-S		Other Action .....	100
Other Action .....	99	2488-S	
1949-S		Other Action .....	100
Other Action .....	99	2492	
1985-S2		Other Action .....	100
Other Action .....	100	2495	
2138-S		Other Action .....	100
Other Action .....	100	2497-S	
2196-S		Other Action .....	100
President Signed .....	67	2499-S	
Speaker Signed .....	62	Other Action .....	100
2224-S		2504-S	
Other Action .....	100	Other Action .....	100
2360		2511	
Other Action .....	100	Other Action .....	100
2397-S		2512-S	
Other Action .....	100	Other Action .....	100
2398		2514-S	
Other Action .....	100	Other Action .....	100
2404-S		2516-S	
Other Action .....	100	Other Action .....	100
2408-S		2517-S	
Other Action .....	100	Other Action .....	100

2524-S	2677
Other Action.....100	Other Action ..... 100
2528	2683-S
Other Action.....100	Other Action ..... 100
2547-S	2687-S3
Messages.....1	Other Action ..... 100
President Signed.....67	2688-S
Speaker Signed.....62	Other Action ..... 100
2556-S	2694
Other Action.....100	Other Action ..... 100
2561	2701
Other Action.....100	Other Action ..... 100
2565-S	2706-S
Other Action.....100	Other Action ..... 100
2566-S	2716-S
Other Action.....100	Other Action ..... 100
2567	2720
Other Action.....100	Other Action ..... 100
2571-S	2721-S
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2580-S	2722-S
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2589-S	2731-S2
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2595	President Signed..... 98
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2596-S	Other Action ..... 100
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2611	Other Action ..... 100
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2617-S2	Other Action ..... 100
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2623-S2	2758-S
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2624-S	Speaker Signed ..... 62
Other Action.....100	2768-S
2627-S	Other Action ..... 101
Other Action.....100	2776-S
2629	Messages..... 4, 67, 96, 98
Other Action.....100	Other Action ..... 75
2630-S2	Other Action ..... 67
Other Action.....100	President Signed..... 98
2636-S	Second Reading ..... 67, 74
Other Action.....100	Third Reading Final Passage..... 75
2638	2782-S2
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Third Reading Final Passage.....39	2818-S
2670-S2	Other Action ..... 101
Other Action.....100	2848
2676	Other Action ..... 101
Other Action.....100	2852-S

Other Action.....	101	2987	Other Action .....	101
2854-S2		2989	Other Action .....	101
Other Action.....	101	2997-S	Other Action .....	101
2863-S		3001-S	Other Action .....	101
Other Action.....	101	3003-S	Other Action .....	101
2865-S		3023	Other Action .....	101
Other Action.....	101	3024-S2	Other Action .....	101
2875-S		3030	President Signed.....	67
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2876-S		3039-S	Other Action .....	101
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Other Action.....	10		Speaker Signed .....	62
Other Action.....	7	3048-S	Other Action .....	101
President Signed.....	97	3056	Other Action .....	101
Second Reading.....	7	3060-S	Other Action .....	101
Third Reading Final Passage .....	10	3061	Messages.....	97
2882-S2			President Signed.....	97
Other Action.....	101		Second Reading .....	61
2884-S			Third Reading Final Passage.....	61
Other Action.....	101	3067-S	Other Action .....	101
2886-S		3068	Other Action .....	101
Other Action.....	101	3072-S	Other Action .....	101
2888		3076-S2	Messages.....	1
Other Action.....	101		President Signed.....	67
2893-S			Speaker Signed .....	62
President Signed.....	67	3095	Other Action .....	101
Second Reading.....	13, 14	3124-S	Messages.....	4, 61, 97
Speaker Signed.....	62		President Signed.....	97
Third Reading Final Passage .....	16		Other Action .....	101
2898			Other Action .....	101
Other Action.....	101		Other Action .....	101
2904			Messages.....	4, 61, 97
Other Action.....	101		President Signed.....	97
2912-S			Other Action .....	101
Other Action.....	101		Other Action .....	101
2918			Messages.....	61, 97
Other Action.....	101		President Signed.....	97
2925-S			Other Action .....	101
President Signed.....	67		Other Action .....	101
Speaker Signed.....	62		Messages.....	61, 97
2930-S			President Signed.....	97
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2933-S			Other Action .....	101
Other Action.....	101		Messages.....	4, 61, 97
2935-S			President Signed.....	97
President Signed.....	67		Other Action .....	101
Speaker Signed.....	62		Other Action .....	101
2937			Messages.....	61, 97
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2941-S			Other Action .....	101
Other Action.....	101		Other Action .....	101
2942			Messages.....	61, 97
Other Action.....	101		President Signed.....	97
2947			Other Action .....	101
Other Action.....	101		Other Action .....	101
2954-S			Messages.....	61, 97
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2956-S2			Other Action .....	101
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Other Action.....	101	Messages.....	98
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5376-S		Final Passage as amended by House.....	53
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5523		Messages.....	40, 97
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5548-S		President Signed.....	79
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5555-S		Messages.....	98
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5621		Final Passage as amended by House.....	41
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5668-S		Other Action.....	41
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5780-S		6308	
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6205-S		Messages.....	42, 97
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6374-S		Messages.....	99
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6380-S		Speaker Signed .....	61
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6381-S		Messages.....	99
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6393-S		Messages.....	99
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6401		Messages.....	99
Speaker Signed.....	61	6575-S2	
6402-S		President Signed.....	3
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6403-S		6578-S2	
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6409-S2		President Signed.....	21
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6430		6593	
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6433-S		6603-S	
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6449-S		6604-S	
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6462		Messages.....	53, 97
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6503-S		Messages.....	3
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6667-S2		Messages .....	99
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6698-S		6874-S	
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6706-S		8218-S	
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6720		8412	
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6721-S		Introduction & 1 <sup>st</sup> Reading .....	79
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